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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 5th January, 2018:—

BILL NO. 1 OF 2018

to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Consumer Protection Act, 2018.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(4) Save as otherwise expressly provided by the Central Government, by notification, this Act shall apply to all goods and services.

Short title,
extent,
commencement
and application.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) “advertisement” means any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents;

(2) “appropriate laboratory” means a laboratory or an organisation—

(i) recognised by the Central Government; or

(ii) recognised by a State Government, subject to such guidelines as may be issued by the Central Government in this behalf; or

(iii) established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

(3) “branch office” means—

(i) any office or place of work described as a branch by the establishment; or

(ii) any establishment carrying on either the same or substantially the same activity carried on by the head office of the establishment;

(4) “Central Authority” means the Central Consumer Protection Authority established under section 10;

(5) “complainant” means—

(i) a consumer; or

(ii) any voluntary consumer association registered under any law for the time being in force; or

(iii) the Central Government or any State Government; or

(iv) the Central Authority; or

(v) one or more consumers, where there are numerous consumers having the same interest; or

(vi) in case of death of a consumer, his legal heir or legal representative; or

(vii) in case of a consumer being a minor, his parent or legal guardian;

(6) “complaint” means any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act, that—

(i) an unfair contract or unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider;

(ii) the goods bought by him or agreed to be bought by him suffer from one or more defects;

(iii) the services hired or availed of or agreed to be hired or availed of by him suffer from any deficiency;

(iv) a trader or a service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price—

(a) fixed by or under any law for the time being in force; or

(b) displayed on the goods or any package containing such goods; or

(c) displayed on the price list exhibited by him by or under any law for the time being in force; or

(d) agreed between the parties;

(v) the goods, which are hazardous to life and safety when used, are being offered for sale to the public—

(a) in contravention of standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;

(b) where the trader knows that the goods so offered are unsafe to the public;

(vi) the services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by a person who provides any service and who knows it to be injurious to life and safety;

(vii) a claim for product liability action lies against the product manufacturer, product seller or product service provider, as the case may be;

(7) “consumer” means any person who—

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose.

Explanation.—For the purposes of this clause,—

(a) the expression “commercial purpose” does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;

(b) the expressions “buys any goods” and “hires or avails any services” includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;

(8) “consumer dispute” means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;

(9) “consumer rights” includes,—

(i) the right to be protected against the marketing of goods, products or services which are hazardous to life and property;

(ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;

(iii) the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;

(iv) the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;

(v) the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and

(vi) the right to consumer awareness;

(10) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression defective shall be construed accordingly;

(11) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes—

(i) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and

(ii) deliberate withholding of relevant information by such person to the consumer;

(12) "design", in relation to a product, means the intended or known physical and material characteristics of such product and includes any intended or known formulation or content of such product and the usual result of the intended manufacturing or other process used to produce such product;

(13) "direct selling" means marketing, distribution and sale of goods or provision of services through a network of sellers, other than through a permanent retail location;

(14) "Director General" means the Director General appointed under sub-section (2) of section 15;

(15) "District Commission" means a District Consumer Disputes Redressal Commission established under sub-section (1) of section 28;

(16) "e-commerce" means buying or selling of goods or services including digital products over digital or electronic network;

(17) "electronic service provider" means a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online market place or online auction sites;

(18) "endorsement", in relation to an advertisement, means—

(i) any message, verbal statement, demonstration; or

(ii) depiction of the name, signature, likeness or other identifiable personal characteristics of an individual; or

(iii) depiction of the name or seal of any institution or organisation,

which makes the consumer to believe that it reflects the opinion, finding or experience of the person making such endorsement;

(19) "establishment" includes an advertising agency, commission agent, manufacturing, trading or any other commercial agency which carries on any business, trade or profession or any work in connection with or incidental or ancillary to any commercial activity, trade or profession, or such other class or classes of persons including public utility entities in the manner as may be prescribed;

(20) “express warranty” means any material statement, affirmation of fact, promise or description relating to a product or service warranting that it conforms to such material statement, affirmation, promise or description and includes any sample or model of a product warranting that the whole of such product conforms to such sample or model;

(21) “goods” means every kind of movable property and includes “food” as defined in clause (j) of sub-section (1) of section 3 of the Food Safety and Standards Act, 2006;

34 of 2006.

(22) “harm”, in relation to a product liability, includes—

(i) damage to any property, other than the product itself;

(ii) personal injury, illness or death;

(iii) mental agony or emotional distress attendant to personal injury or illness or damage to property; or

(iv) any loss of consortium or services or other loss resulting from a harm referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii),

but shall not include any harm caused to a product itself or any damage to the property on account of breach of warranty conditions or any commercial or economic loss, including any direct, incidental or consequential loss relating thereto;

(23) “injury” means any harm whatever illegally caused to any person, in body, mind or property;

(24) “manufacturer” means a person who—

(i) makes any goods or parts thereof; or

(ii) assembles any goods or parts thereof made by others; or

(iii) puts or causes to be put his own mark on any goods made by any other person;

(25) “mediation” means the process by which a mediator mediates the consumer disputes;

(26) “mediator” means a mediator referred to in section 75;

(27) “member” includes the President and a member of the National Commission or a State Commission or a District Commission, as the case may be;

(28) “misleading advertisement” in relation to any product or service, means an advertisement, which—

(i) falsely describes such product or service; or

(ii) gives a false guarantee to or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or

(iii) conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or

(iv) deliberately conceals important information;

(29) “National Commission” means the National Consumer Disputes Redressal Commission established under sub-section (1) of section 53;

(30) “notification” means a notification published in the Official Gazette and the term notify shall be construed accordingly;

(31) “person” includes—

- (i) an individual;
- (ii) a firm whether registered or not;
- (iii) a Hindu Undivided Family;
- (iv) a co-operative society;
- (v) an association of persons whether registered under the Societies Registration Act, 1860 or not;
- (vi) any corporation, company or a body of individuals whether incorporated or not;
- (vii) any artificial juridical person, not falling within any of the preceding sub-clauses;

21 of 1860.

(32) “prescribed” means prescribed by rules made by the Central Government, or as the case may be, the State Government;

(33) “product” means any article or goods or substance or raw material or any extended cycle of such product, which may be in gaseous, liquid, or solid state possessing intrinsic value which is capable of delivery either as wholly assembled or as a component part and is produced for introduction to trade or commerce, but does not include human tissues, blood, blood products and organs;

(34) “product liability” means the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto;

(35) “product liability action” means a complaint filed by a person before a District Commission or State Commission or National Commission, as the case may be, for claiming compensation for the harm caused to him;

(36) “product manufacturer” means a person who—

- (i) makes any product or parts thereof; or
- (ii) assembles parts thereof made by others; or
- (iii) puts or causes to be put his own mark on any products made by any other person; or
- (iv) makes a product and sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains such product or is otherwise involved in placing such product for commercial purpose; or
- (v) designs, produces, fabricates, constructs or re-manufactures any product before its sale; or
- (vi) being a product seller of a product, is also a manufacturer of such product;

(37) “product seller”, in relation to a product, means a person who, in the course of business, imports, sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains, or otherwise is involved in placing such product for commercial purpose and includes—

- (i) a manufacturer who is also a product seller; or
- (ii) a service provider,

but does not include—

(a) a seller of immovable property, unless such person is engaged in the sale of constructed house or in the construction of homes or flats;

(b) a provider of professional services in any transaction in which, the sale or use of a product is only incidental thereto, but furnishing of opinion, skill or services being the essence of such transaction;

(c) a person who—

(I) acts only in a financial capacity with respect to the sale of the product;

(II) is not a manufacturer, wholesaler, distributor, retailer, direct seller or an electronic service provider;

(III) leases a product, without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(38) “product service provider”, in relation to a product, means a person who provides any service in respect of such product;

(39) “regulations” means the regulations made by the National Commission, or as the case may be, the Central Authority;

(40) “Regulator” means a body or an authority established under any other law for the time being in force;

(41) “restrictive trade practice” means a trade practice which tends to bring about manipulation of price or its conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include—

(i) delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;

(ii) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent for buying, hiring or availing of other goods or services;

(42) “service” means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, healthcare, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

(43) “spurious goods” means such goods which are falsely claimed to be genuine;

(44) “State Commission” means a State Consumer Disputes Redressal Commission established under sub-section (1) of section 42;

(45) “trader”, in relation to any goods, means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof;

(46) “unfair contract” means a contract between a manufacturer or trader or service provider on one hand, and a consumer on the other, having such terms which cause significant change in the rights of such consumer, including the following, namely:—

(i) requiring manifestly excessive security deposits to be given by a consumer for the performance of contractual obligations; or

(ii) imposing any penalty on the consumer, for the breach of contract thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or

(iii) refusing to accept early repayment of debts on payment of applicable penalty; or

(iv) entitling a party to the contract to terminate such contract unilaterally, without reasonable cause; or

(v) permitting or has the effect of permitting one party to assign the contract to the detriment of the other party who is a consumer, without his consent; or

(vi) imposing on the consumer any unreasonable charge, obligation or condition which puts such consumer to disadvantage;

(47) “unfair trade practice” means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely: —

(i) making any statement, whether orally or in writing or by visible representation including by means of electronic record, which—

(a) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(b) falsely represents that the services are of a particular standard, quality or grade;

(c) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;

(d) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;

(e) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(f) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;

(g) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof:

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(h) makes to the public a representation in a form that purports to be—

(A) a warranty or guarantee of a product or of any goods or services; or

(B) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,

if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

(i) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

(j) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation.—For the purposes of this sub-clause, a statement that is,—

(A) expressed on an article offered or displayed for sale, or on its wrapper or container; or

(B) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or

(C) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public,

shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(ii) permitting the publication of any advertisement, whether in any newspaper or otherwise, including by way of electronic record, for the sale or supply at a bargain price of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation.—For the purpose of this sub-clause, “bargain price” means,—

(A) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise; or

(B) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

(iii) permitting—

(a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged, in the transaction as a whole;

(b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest, except such contest, lottery, game of chance or skill as may be prescribed;

(c) withholding from the participants of any scheme offering gifts, prizes or other items free of charge on its closure, the information about final results of the scheme.

Explanation.—For the purpose of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time published, prominently in the same newspaper in which the scheme was originally advertised;

(iv) permitting the sale or supply of goods intended to be used, or are of a kind likely to be used by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by the competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(v) permitting the hoarding or destruction of goods, or refusal to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services;

(vi) manufacturing of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services;

(vii) not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed;

(viii) refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days;

(ix) disclosing to other person any personal information given in confidence by the consumer unless such disclosure is made in accordance with the provisions of any law for the time being in force.

CHAPTER II

CONSUMER PROTECTION COUNCILS

Central
Consumer
Protection
Council.

3. (1) The Central Government shall, by notification, establish with effect from such date as it may specify in that notification, the Central Consumer Protection Council to be known as the Central Council.

(2) The Central Council shall be an advisory council and consist of the following members, namely:—

(a) the Minister-in-charge of the Department of Consumer Affairs in the Central Government, who shall be the Chairperson; and

(b) such number of other official or non-official members representing such interests as may be prescribed.

4. (1) The Central Council shall meet as and when necessary, but at least one meeting of the Council shall be held every year.

Procedure for
meetings of
Central
Council.

(2) The Central Council shall meet at such time and place as the Chairperson may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

5. The objects of the Central Council shall be to render advice on promotion and protection of the consumers' rights under this Act.

Objects of
Central
Council.

6. (1) Every State Government shall, by notification, establish with effect from such date as it may specify in such notification, a State Consumer Protection Council for such State to be known as the State Council.

State
Consumer
Protection
Councils.

(2) The State Council shall be an advisory council and consist of the following members, namely:—

(a) the Minister-in-charge of Consumer Affairs in the State Government who shall be the Chairperson;

(b) such number of other official or non-official members representing such interests as may be prescribed;

(c) such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.

(3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The State Council shall meet at such time and place as the Chairperson may think fit and shall observe such procedure in regard to the transaction of its business, as may be prescribed.

7. The objects of every State Council shall be to render advice on promotion and protection of consumer rights under this Act within the State.

Objects of
State Council.

8. (1) The State Government shall, by notification, establish for every District with effect from such date as it may specify in such notification, a District Consumer Protection Council to be known as the District Council.

District
Consumer
Protection
Council.

(2) The District Council shall be an advisory council and consist of the following members, namely:—

(a) the Collector of the district (by whatever name called), who shall be the Chairperson; and

(b) such number of other official and non-official members representing such interests as may be prescribed.

(3) The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The District Council shall meet at such time and place within the district as the Chairperson may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

9. The objects of every District Council shall be to render advice on promotion and protection of consumer rights under this Act within the district.

Objects of
District
Council.

CHAPTER III

CENTRAL CONSUMER PROTECTION AUTHORITY

Establishment
of Central
Consumer
Protection
Authority.

10. (1) The Central Government shall, by notification, establish with effect from such date as it may specify in that notification, a Central Consumer Protection Authority to be known as the Central Authority to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class.

(2) The Central Authority shall consist of a Chief Commissioner and such number of other Commissioners as may be prescribed, to be appointed by the Central Government to exercise the powers and discharge the functions under this Act.

(3) The headquarters of the Central Authority shall be at such place in the National Capital Region of Delhi, and it shall have regional and other offices in any other place in India as the Central Government may decide.

Qualifications,
method of
recruitment,
etc., of Chief
Commissioner
and
Commissioners.

11. The Central Government may, by notification, make rules to provide for the qualifications for appointment, method of recruitment, procedure for appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of the service of the Chief Commissioner and Commissioners of the Central Authority.

Vacancy, etc.,
not to
invalidate
proceedings of
Central
Authority.

12. No act or proceeding of the Central Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Central Authority; or

(b) any defect in the appointment of a person acting as the Chief Commissioner or as a Commissioner; or

(c) any irregularity in the procedure of the Central Authority not affecting the merits of the case.

Appointment
of officers,
experts,
professionals
and other
employees of
Central
Authority.

13. (1) The Central Government shall provide the Central Authority such number of officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(2) **The salary and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Central Authority appointed under this Act shall be such as may be prescribed.**

(3) The Central Authority may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and ability, who have special knowledge and experience in the areas of consumer rights and welfare, consumer policy, law, medicine, food safety, health, engineering, product safety, commerce, economics, public affairs or administration, as it deems necessary to assist it in the discharge of its functions under this Act.

Procedure of
Central
Authority.

14. (1) The Central Authority shall regulate the procedure for transaction of its business and allocation of its business amongst the Chief Commissioner and Commissioners as may be specified by regulations.

(2) The Chief Commissioner shall have the powers of general superintendence, direction and control in respect of all administrative matters of the Central Authority:

Provided that the Chief Commissioner may delegate such of his powers relating to administrative matters of the Central Authority, as he may think fit, to any Commissioner (including Commissioner of a regional office) or any other officer of the Central Authority.

15. (1) The Central Authority shall have an Investigation Wing headed by a Director General for the purpose of conducting inquiry or investigation under this Act as may be directed by the Central Authority. Investigation Wing.

(2) The Central Government may appoint a Director General and such number of Additional Director General, Director, Joint Director, Deputy Director and Assistant Director, from amongst persons who have experience in investigation and possess such qualifications, in such manner, as may be prescribed.

(3) Every Additional Director General, Director, Joint Director, Deputy Director and Assistant Director shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director General.

(4) The Director General may delegate all or any of his powers to the Additional Director General or Director, Joint Director or Deputy Director or Assistant Director, as the case may be, while conducting inquiries or investigations under this Act.

(5) The inquiries or the investigations made by the Director General shall be submitted to the Central Authority in such form, in such manner and within such time, as may be specified by regulations.

16. The District Collector (by whatever name called) may, on a complaint or on a reference made to him by the Central Authority or the Commissioner of a regional office, inquire into or investigate complaints regarding violation of rights of consumers as a class, on matters relating to violations of consumer rights, unfair trade practices and false or misleading advertisements, within his jurisdiction and submit his report to the Central Authority or to the Commissioner of a regional office, as the case may be. Power of District Collector.

17. A complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, may be forwarded either in writing or in electronic mode, to any one of the authorities, namely, the District Collector or the Commissioner of regional office or the Central Authority. Complaints to authorities.

18. (1) The Central Authority shall— Powers and functions of Central Authority.

(a) protect, promote and enforce the rights of consumers as a class, and prevent violation of consumers rights under this Act;

(b) prevent unfair trade practices and ensure that no person engages himself in unfair trade practices;

(c) ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or the rules or regulations made thereunder;

(d) ensure that no person takes part in the publication of any advertisement which is false or misleading.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Central Authority may, for any of the purposes aforesaid,—

(a) inquire or cause an inquiry or investigation to be made into violations of consumer rights or unfair trade practices, either *suo motu* or on a complaint received or on the directions from the Central Government;

(b) file complaints before the District Commission, the State Commission or the National Commission, as the case may be, under this Act;

(c) intervene in any proceedings before the District Commission or State Commission or National Commission, as the case may be, in respect of any allegation of violation of consumer rights or unfair trade practices;

(d) review the matters relating to, and the factors inhibiting enjoyment of, consumer rights, including safeguards provided for the protection of consumers under any other law for the time being in force and recommend appropriate remedial measures for their effective implementation;

(e) recommend adoption of international covenants and best international practices on consumer rights to ensure effective enforcement of consumer rights;

(f) undertake and promote research in the field of consumer rights;

(g) spread and promote awareness on consumer rights;

(h) encourage non-Governmental organisations and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies;

(i) mandate the use of unique and universal goods identifiers in such goods, as may be necessary, to prevent unfair trade practices and to protect consumers' interest;

(j) issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services;

(k) advise the Ministries and Departments of the Central and State Governments on consumer welfare measures;

(l) issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

Power of
Central
Authority to
refer matter
for
investigation
or to other
Regulator.

19. (1) The Central Authority may, after receiving any information or complaint or directions from the Central Government or of its own motion, conduct or cause to be conducted a preliminary inquiry as to whether there exists a *prima facie* case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a *prima facie* case, it shall cause investigation to be made by the Director General or by the District Collector.

(2) Where, after preliminary inquiry, the Central Authority is of the opinion that the matter is to be dealt with by a Regulator established under any other law for the time being in force, it may refer such matter to the concerned Regulator along with its report.

(3) For the purpose of investigation under sub-section (1), the Central Authority, the Director General or the District Collector may call upon a person referred to in sub-section (1) and also direct him to produce any document or record in his possession.

Power of
Central
Authority to
recall goods,
etc.

20. Where the Central Authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person, it may pass such order as may be necessary, including—

(a) recalling of goods or withdrawal of services which are dangerous, hazardous or unsafe;

(b) reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and

(c) discontinuation of practices which are unfair and prejudicial to consumers' interest:

Provided that the Central Authority shall give the person an opportunity of being heard before passing an order under this section.

21. (1) Where the Central Authority is satisfied after investigation that any advertisement is false or misleading and is prejudicial to the interest of any consumer or is in contravention of consumer rights, it may, by order, issue directions to the concerned trader or manufacturer or endorser or advertiser or publisher, as the case may be, to discontinue such advertisement or to modify the same in such manner and within such time as may be specified in that order.

Power of Central Authority to issue directions and penalties against false or misleading advertisements.

(2) Notwithstanding the order passed under sub-section (1), if the Central Authority is of the opinion that it is necessary to impose a penalty in respect of such false or misleading advertisement, by a manufacturer or an endorser, it may, by order, impose on manufacturer or endorser a penalty which may extend to ten lakh rupees:

Provided that the Central Authority may, for every subsequent contravention by a manufacturer or endorser, impose a penalty, which may extend to fifty lakh rupees.

(3) Notwithstanding any order under sub-sections (1) and (2), where the Central Authority deems it necessary, it may, by order, prohibit the endorser of a false or misleading advertisement from making endorsement of any product or service for a period which may extend to one year:

Provided that the Central Authority may, for every subsequent contravention, prohibit such endorser from making endorsement in respect of any product or service for a period which may extend to three years.

(4) Where the Central Authority is satisfied after investigation that any person is found to publish, or is a party to the publication of, a misleading advertisement, it may impose on such person a penalty which may extend to ten lakh rupees.

(5) No endorser shall be liable to a penalty under sub-sections (2) and (3) if he has exercised due diligence to verify the veracity of the claims made in the advertisement regarding the product or service being endorsed by him.

(6) No person shall be liable to such penalty if he proves that he had published or arranged for the publication of such advertisement in the ordinary course of his business:

Provided that no such defence shall be available to such person if he had previous knowledge of the order passed by the Central Authority for withdrawal or modification of such advertisement.

(7) While determining the penalty under this section, regard shall be had to the following, namely:—

- (a) the population and the area impacted or affected by such offence;
- (b) the frequency and duration of such offence;
- (c) the vulnerability of the class of persons likely to be adversely affected by such offence; and
- (d) the gross revenue from the sales effected by virtue of such offence.

(8) The Central Authority shall give the person an opportunity of being heard before an order under this section is passed.

22. (1) For the purpose of conducting an investigation after preliminary inquiry under sub-section (1) of section 19, the Director-General or any other officer authorised by him in this behalf, or the District Collector, as the case may be, may, if he has any reason to believe

Search and seizure.

that any person has violated any consumer rights or committed unfair trade practice or causes any false or misleading advertisement to be made, shall,—

(a) enter at any reasonable time into any such premises and search for any document or record or article or any other form of evidence and seize such document, record, article or such evidence;

(b) make a note or an inventory of such record or article; or

(c) require any person to produce any record, register or other document or article.

(2) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, as far as may be, for search and seizure under this Act. 2 of 1974.

(3) Every document, record or article seized under clause (a) of sub-section (1) or produced under clause (c) of that sub-section shall be returned to the person, from whom they were seized or who produced the same, within a period of twenty days of the date of such seizure or production, as the case may be, after copies thereof or extracts therefrom certified by that person, in such manner as may be prescribed, have been taken.

(4) Where any article seized under sub-section (1) are subject to speedy or natural decay, the Director-General or such other officer may dispose of the article in such manner as may be prescribed.

(5) In the case of articles other than the articles referred to in sub-section (4), provisions contained in clause (c) of sub-section (2) of section 38 shall *mutatis mutandis* apply in relation to analysis or tests.

Designation of
any statutory
authority or
body to
function as
Central
Authority.

23. The Central Government may, if it considers necessary, by notification, designate any statutory authority or body to exercise the powers and perform the functions of the Central Authority referred to in section 10.

Appeal.

24. A person aggrieved by any order passed by the Central Authority under sections 20 and 21 may file an appeal to the National Commission within a period of thirty days from the date of receipt of such order.

Grants by
Central
Government.

25. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Central Authority grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

Accounts and
audit.

26. (1) The Central Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Central Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the audit of the accounts of the Central Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Central Authority.

(4) The accounts of the Central Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government which shall cause the same to be laid before each House of Parliament.

27. (1) The Central Authority shall prepare once in every year, in such form, manner and at such time as may be prescribed, an annual report giving full account of its activities during the previous year and such other reports and returns, as may be directed, and copies of such report and returns shall be forwarded to the Central Government.

Furnishing of annual reports, etc.

(2) A copy of the annual report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER IV

CONSUMER DISPUTES REDRESSAL COMMISSION

28. (1) The State Government shall, by notification, establish a District Consumer Disputes Redressal Commission, to be known as the District Commission, in each district of the State:

Establishment of District Consumer Disputes Redressal Commission.

Provided that the State Government may, if it deems fit, establish more than one District Commission in a district.

(2) Each District Commission shall consist of—

(a) a President; and

(b) not less than two and not more than such number of members as may be prescribed, in consultation with the Central Government.

29. The Central Government may, by notification, make rules to provide for the qualifications, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the District Commission.

Qualifications, etc., of President and members of District Commission.

30. The State Government may, by notification, make rules to provide for salaries and allowances and other terms and conditions of service of the President, and members of the District Commission.

Salaries, allowances and other terms and conditions of service of President and members of District Commission.

31. Any person appointed as President or, as the case may be, a member of the District Commission immediately before the commencement of this Act shall continue to hold office as such as President, as the case may be, as member till the completion of his term for which he has been appointed.

Transitional provision.

32. If, at any time, there is a vacancy in the office of the President or member of a District Commission, the State Government may, by notification, direct—

(a) any other District Commission specified in that notification to exercise the jurisdiction in respect of that district also; or

Vacancy in office of member of District Commission.

(b) the President or a member of any other District Commission specified in that notification to exercise the powers and discharge the functions of the President or member of that District Commission also.

33. (1) The State Government shall provide the District Commission with such officers and other employees as may be required to assist the District Commission in the discharge of its functions.

Officers and other employees of District Commission.

(2) The officers and other employees of the District Commission shall discharge their functions under the general superintendence of the President of the District Commission.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the District Commission shall be such as may be prescribed.

Jurisdiction of District Commission.

34. (1) Subject to the other provisions of this Act, the District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed one crore rupees:

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.

(2) A complaint shall be instituted in a District Commission within the local limits of whose jurisdiction,—

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office, or personally works for gain, provided that in such case the permission of the District Commission is given; or

(c) the cause of action, wholly or in part, arises; or

(d) the complainant resides or personally works for gain.

(3) The District Commission shall ordinarily function in the district headquarters and may perform its functions at such other place in the district, as the State Government may, in consultation with the State Commission, notify in the Official Gazette from time to time.

Manner in which complaint shall be made.

35. (1) A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by—

(a) the consumer,—

(i) to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided; or

(ii) who alleges unfair trade practice in respect of such goods or service;

(b) any recognised consumer association, whether the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided, or who alleges unfair trade practice in respect of such goods or service, is a member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Commission, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central Government, the Central Authority or the State Government, as the case may be:

Provided that the complaint under this sub-section may be filed electronically in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, “recognised consumer association” means any voluntary consumer association registered under any law for the time being in force.

(2) Every complaint filed under sub-section (1) shall be accompanied with such fee and payable in such manner, including electronic form, as may be prescribed.

36. (1) Every proceeding before the District Commission shall be conducted by the President of that Commission and at least one member thereof, sitting together:

Proceedings
before District
Commission.

Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member.

(2) On receipt of a complaint made under section 35, the District Commission may, by order, admit the complaint for being proceeded with or reject the same:

Provided that a complaint shall not be rejected under this section unless an opportunity of being heard has been given to the complainant:

Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was filed.

(3) Where the District Commission does not decide the issue of admissibility of the complaint within the period so specified, it shall be deemed to have been admitted.

37. (1) At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties, except in such cases as may be prescribed, it may direct the parties to give in writing, within five days, consent to have their dispute settled by mediation in accordance with the provisions of Chapter V.

Reference to
mediation.

(2) Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within five days of receipt of such consent, refer the matter for mediation, and in such case, the provisions of Chapter V, relating to mediation, shall apply.

38. (1) The District Commission shall, on admission of a complaint, or in respect of cases referred for mediation on failure of settlement by mediation, proceed with such complaint.

Procedure on
admission of
complaint.

(2) Where the complaint relates to any goods, the District Commission shall,—

(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by it;

(b) if the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);

(c) if the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, obtain a sample of the goods from the complainant, seal it and authenticate it in the manner as may be prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory to make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Commission within a period of forty-five days of the receipt of the reference or within such extended period as may be granted by it;

(d) before any sample of the goods is referred to any appropriate laboratory under clause (c), require the complainant to deposit to the credit of the Commission such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

(e) remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, it shall forward a copy of the report along with such remarks as it may feel appropriate to the opposite party;

(f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, require the opposite party or the complainant to submit in writing his objections with regard to the report made by the appropriate laboratory;

(g) give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue an appropriate order under section 39.

(3) The District Commission shall, if the complaint admitted by it under section 36 relates to goods in respect of which the procedure specified in sub-section (2) cannot be followed, or if the complaint relates to any services,—

(a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Commission;

(b) if the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, it shall proceed to settle the consumer dispute—

(i) on the basis of evidence brought to its notice by the complainant and the opposite party, if the opposite party denies or disputes the allegations contained in the complaint, or

(ii) *ex parte* on the basis of evidence brought to its notice by the complainant, where the opposite party omits or fails to take any action to represent his case within the time given by the Commission;

(c) decide the complaint on merits if the complainant fails to appear on the date of hearing.

(4) For the purposes of sub-sections (2) and (3), the District Commission may, by order, require an electronic service provider to provide such information, documents or records, as may be specified in that order.

(5) No proceedings complying with the procedure laid down in sub-sections (1) and (2) shall be called in question in any court on the ground that the principles of natural justice have not been complied with.

(6) Every complaint shall be heard by the District Commission on the basis of affidavit and documentary evidence placed on record:

Provided that where an application is made for hearing or for examination of parties in person or through video conferencing, the District Commission may, on sufficient cause being shown, and after recording its reasons in writing, allow the same.

(7) Every complaint shall be disposed of as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities:

Provided that no adjournment shall ordinarily be granted by the District Commission unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Commission:

Provided further that the District Commission shall make such orders as to the costs occasioned by the adjournment as may be specified by regulations:

Provided also that in the event of a complaint being disposed of after the period so specified, the District Commission shall record in writing, the reasons for the same at the time of disposing of the said complaint.

(8) Where during the pendency of any proceeding before the District Commission, if it appears necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.

5 of 1908. (9) For the purposes of this section, the District Commission shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(b) requiring the discovery and production of any document or other material object as evidence;

(c) receiving of evidence on affidavits;

(d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;

(e) issuing of commissions for the examination of any witness, or document; and

(f) any other matter which may be prescribed by the Central Government.

45 of 1860. (10) Every proceeding before the District Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860, and the District Commission shall be deemed to be a criminal court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

5 of 1908. (11) Where the complainant is a consumer referred to in sub-clause (v) of clause (5) of section 2, the provisions of Order I Rule 8 of the First Schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Commission thereon.

5 of 1908. (12) In the event of death of a complainant who is a consumer or of the opposite party against whom the complaint has been filed, the provisions of Order XXII of the First Schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to the plaintiff and the defendant shall be construed as reference to a complainant or the opposite party, as the case may be.

39. (1) Where the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability are proved, it shall issue an order to the opposite party directing him to do one or more of the following, namely:—

Findings of District Commission.

(a) to remove the defect pointed out by the appropriate laboratory from the goods in question;

(b) to replace the goods with new goods of similar description which shall be free from any defect;

(c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant along with such interest on such price or charges as may be decided;

(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party:

Provided that the District Commission shall have the power to grant punitive damages in such circumstances as it deems fit;

(e) to pay such amount as may be awarded by it as compensation in a product liability action under Chapter VI;

(f) to remove the defects in goods or deficiencies in the services in question;

(g) to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;

(h) not to offer the hazardous or unsafe goods for sale;

(i) to withdraw the hazardous goods from being offered for sale;

(j) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;

(k) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently:

Provided that the minimum amount of sum so payable shall not be less than twenty-five per cent. of the value of such defective goods sold or service provided, as the case may be, to such consumers;

(l) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;

(m) to provide for adequate costs to parties; and

(n) to cease and desist from issuing any misleading advertisement.

(2) Any amount obtained under sub-section (1) shall be credited to such fund and utilised in such manner as may be prescribed.

(3) In any proceeding conducted by the President and a member and if they differ on any point or points, they shall state the point or points on which they differ and refer the same to another member for hearing on such point or points and the opinion of the majority shall be the order of the District Commission:

Provided that the other member shall give his opinion on such point or points referred to him within a period of one month from the date of such reference.

(4) Every order made by the District Commission under sub-section (1) shall be signed by the President and the member who conducted the proceeding:

Provided that where the order is made as per majority opinion under sub-section (3), such order shall also be signed by the other member.

Review by
District
Commission in
certain cases.

40. The District Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

41. Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of forty-five days from the date of the order, in such form and manner, as may be prescribed:

Appeal against order of District Commission.

Provided that the State Commission may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed:

Provided also that no appeal shall lie from any order passed under sub-section (1) of section 81 by the District Commission pursuant to a settlement by mediation under section 80.

42. (1) The State Government shall, by notification, establish a State Consumer Disputes Redressal Commission, to be known as the State Commission, in the State.

Establishment of State Consumer Disputes Redressal Commission.

(2) The State Commission shall ordinarily function at the State capital and perform its functions at such other places as the State Government may in consultation with the State Commission notify in the Official Gazette:

Provided that the State Government may, by notification, establish regional benches of the State Commission, at such places, as it deems fit.

(3) Each State Commission shall consist of—

(a) a President; and

(b) not less than four or not more than such number of members as may be prescribed in consultation with the Central Government.

43. The Central Government may, by notification, make rules to provide for the qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission.

Qualifications, etc., of President and members of State Commission.

44. The State Government may, by notification, make rules to provide for salaries and allowances and other terms and conditions of service of the President and members of the State Commission.

Salaries, allowances and other terms and conditions of service of President and members of State Commission.

45. Any person appointed as President or, as the case may be, a member of the State Commission immediately before the commencement of this Act to hold office as such, as President or member, as the case may be, till the completion of his term.

Transitional provision.

46. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist the State Commission in the discharge of its functions and provide the Commission with such officers and other employees as it may think fit.

Officers and employees of State Commission.

(2) The officers and other employees of the State Commission shall discharge their functions under the general superintendence of the President.

(3) The salaries and allowances payable to and the other terms and conditions of service of, the officers and other employees of the State Commission shall be such as may be prescribed.

Jurisdiction of
State
Commission.

47. (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction—

(a) to entertain—

(i) complaints where the value of the goods or services paid as consideration, exceeds rupees one crore, but does not exceed rupees ten crore:

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;

(ii) complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed ten crore rupees;

(iii) appeals against the orders of any District Commission within the State; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

(2) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof, and a Bench may be constituted by the President with one or more members as the President may deem fit:

Provided that the senior-most member shall preside over the Bench.

(3) Where the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it:

Provided that the President or the other members, as the case may be, shall give opinion on the point or points so referred within a period of one month from the date of such reference.

(4) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction,—

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided in such case, the permission of the State Commission is given; or

(c) the cause of action, wholly or in part, arises; or

(d) the complainant resides or personally works for gain.

Transfer
of cases.

48. On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before a District Commission to another District Commission within the State if the interest of justice so requires.

Procedure
applicable to
State
Commission.

49. (1) The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of complaints by the State Commission.

(2) Without prejudice to the provisions of sub-section (1), the State Commission may also declare any terms of contract, which is unfair to any consumer, to be null and void.

50. The State Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

Review
by State
Commission in
certain cases.

51. (1) Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clauses (i) or (ii) of clause (a) of sub-section (1) of section 47 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Appeal
to National
Commission.

Provided that the National Commission shall not entertain the appeal after the expiry of the said period of thirty days unless it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed.

(2) Save as otherwise expressly provided under this Act or by any other law for the time being in force, an appeal shall lie to the National Commission from any order passed in appeal by any State Commission, if the National Commission is satisfied that the case involves a substantial question of law.

(3) In an appeal involving a question of law, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(4) Where the National Commission is satisfied that a substantial question of law is involved in any case, it shall formulate that question and hear the appeal on that question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the National Commission to hear, for reasons to be recorded in writing, the appeal on any other substantial question of law, if it is satisfied that the case involves such question of law.

(5) An appeal may lie to the National Commission under this section from an order passed *ex parte* by the State Commission.

52. An appeal filed before the State Commission or the National Commission, as the case may be, shall be heard as expeditiously as possible and every endeavour shall be made to dispose of the appeal within a period of ninety days from the date of its admission:

Hearing of
appeal.

Provided that no adjournment shall ordinarily be granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:

Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment, as may be specified by regulations:

Provided also that in the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said appeal.

53. (1) The Central Government shall, by notification, establish a National Consumer Disputes Redressal Commission, to be known as the National Commission.

Establishment
of National
Consumer
Disputes
Redressal
Commission.

(2) The National Commission shall ordinarily function at the National Capital Region and perform its functions at such other places as the Central Government may in consultation with the National Commission notify in the Official Gazette:

Provided that the Central Government may, by notification, establish regional Benches of the National Commission, at such places, as it deems fit.

Composition
of National
Commission.

54. The National Commission shall consist of—

(a) a President; and

(b) not less than four and not more than such number of members as may be prescribed.

Qualifications,
etc., of
President and
members of
National
Commission.

55. (1) The Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the President and members of the National Commission:

Provided that the President and members of the National Commission shall hold office for such term as specified in the rules made by the Central Government but not exceeding five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided further that no President or members shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed,—

(a) in the case of the President, the age of seventy years;

(b) in the case of any other member, the age of sixty-seven years;

(2) Neither the salary and allowances nor the other terms and conditions of service of President and members of the National Commission shall be varied to his disadvantage after his appointment.

Transitional
provision.

56. The President and every other member appointed immediately before the commencement of section 177 of the Finance Act, 2017 shall continue to be governed by the provisions of the Consumer Protection Act, 1986 and the rules made thereunder as if this Act had not come into force.

7 of 2017.
68 of 1986.

Other officers
and employees
of National
Commission.

57. (1) The Central Government shall provide, in consultation with the President of the National Commission, such number of officers and other employees to assist the National Commission in the discharge of its functions as it may think fit.

(2) The officers and other employees of the National Commission shall discharge their functions under the general superintendence of the President of the National Commission.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the National Commission shall be such as may be prescribed.

Jurisdiction of
National
Commission.

58. (1) Subject to the other provisions of this Act, the National Commission shall have jurisdiction—

(a) to entertain—

(i) complaints where the value of the goods or services paid as consideration exceeds rupees ten crores:

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.

(ii) complaints against unfair contracts, where the value of goods or services paid as consideration exceeds ten crore rupees;

(iii) appeals against the orders of any State Commission;

(iv) appeals against the orders of the Central Authority; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

(2) The jurisdiction, powers and authority of the National Commission may be exercised by Benches thereof and a Bench may be constituted by the President with one or more members as he may deem fit:

Provided that the senior-most member of the Bench shall preside over the Bench.

(3) Where the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it:

Provided that the President or the other member, as the case may be, shall give opinion on the point or points so referred within a period of two months from the date of such reference.

59. (1) The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be considered necessary, be applicable to the disposal of complaints by the National Commission.

Procedure applicable to National Commission.

(2) Without prejudice to sub-section (1), the National Commission may also declare any terms of contract, which is unfair to any consumer to be null and void.

60. The National Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

Review by National Commission in certain cases.

61. Where an order is passed by the National Commission *ex parte*, the aggrieved party may make an application to the Commission for setting aside such order.

Power to set aside *ex parte* orders.

62. On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Commission of one State to a District Commission of another State or before one State Commission to another State Commission.

Transfer of cases.

63. When the office of President of the National Commission is vacant or a person occupying such office is, by reason of absence or otherwise, unable to perform the duties of his office, these shall be performed by the senior-most member of the National Commission:

Vacancy in office of President of National Commission.

Provided that where a retired Judge of a High Court or a person who has been a Judicial Member is a member of the National Commission, such member or where the number of such members is more than one, the senior-most person amongst such members, shall preside over the National Commission in the absence of President of that Commission.

Vacancies or defects in appointment not to invalidate orders.

64. No act or proceeding of the District Commission, the State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Service of notice, etc.

65. (1) All notices, required by this Act to be served, shall be served by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service, approved by the District Commission, the State Commission or the National Commission, as the case may be, or by any other mode of transmission of documents including electronic means.

(2) Without prejudice to the provisions contained in sub-section (1), the notice required by this Act may be served on an electronic service provider at the address provided by it on the electronic platform from where it provides its services as such and for this purpose, the electronic service provider shall designate a nodal officer to accept and process such notices.

(3) When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or, as the case may be, by the complainant is received by the District Commission, the State Commission or the National Commission, as the case may be, or postal article containing the notice is received back by such District Commission, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorised by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (1) when tendered or transmitted to him, the District Commission or the State Commission or the National Commission, as the case may be, shall declare that the notice has been duly served on the opposite party or to the complainant, as the case may be:

Provided that where the notice was properly addressed, pre-paid and duly sent by registered post acknowledgment due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgment has been lost or misplaced, or for any other reason, has not been received by the District Commission, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.

(4) All notices required to be served on an opposite party or to complainant, as the case may be, shall be deemed to be sufficiently served, if addressed in the case of the opposite party, to the place where business or profession is carried on, and in case of the complainant, the place where such person actually and voluntarily resides.

Experts to assist National Commission or State Commission.

66. Where the National Commission or the State Commission, as the case may be, on an application by a complainant or otherwise, is of the opinion that it involves the larger interest of consumers, it may direct any individual or organisation or expert to assist the National Commission or the State Commission, as the case may be.

Appeal against order of National Commission.

67. Any person, aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clauses (i) or (ii) of clause (a) of sub-section (1) of section 58, may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited fifty per cent. of that amount in the manner as may be prescribed.

68. Every order of a District Commission or the State Commission or the National Commission, as the case may be, shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

Finality of orders.

69. (1) The District Commission, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.

Limitation period.

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Commission, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

Provided that no such complaint shall be entertained unless the District Commission or the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.

70. (1) The National Commission shall have the authority to lay down such adequate standards in consultation with the Central Government from time to time, for better protection of the interests of consumers and for that purpose, shall have administrative control over all the State Commissions in the following matters, namely:—

Administrative control.

(a) monitoring performance of the State Commissions in terms of their disposal by calling for periodical returns regarding the institution, disposal and pendency of cases;

(b) investigating into any allegations against the President and members of a State Commission and submitting inquiry report to the State Government concerned along with copy endorsed to the Central Government for necessary action;

(c) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents;

(d) overseeing the functioning of the State Commission or the District Commission either by way of inspection or by any other means, as the National Commission may like to order from time to time, to ensure that the objects and purposes of the Act are best served and the standards set by the National Commission are implemented without interfering with their quasi-judicial freedom.

(2) There shall be a monitoring cell to be constituted by the President of the National Commission to oversee the functioning of the State Commissions from the administrative point of view.

(3) The State Commission shall have administrative control over all the District Commissions within its jurisdiction in all matters referred to in sub-section (1).

(4) The National Commission and the State Commissions shall furnish to the Central Government periodically or as and when required, any information including the pendency of cases in such form and manner as may be prescribed.

(5) The State Commission shall furnish, periodically or as and when required to the State Government any information including pendency of cases in such form and manner as may be prescribed.

71. Every order made by a District Commission, State Commission or the National Commission shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be, applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under this Act.

Enforcement of orders of District Commission, State Commission and National Commission.

Penalty for non-compliance of order.

72. (1) Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Commission, the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of First Class for the trial of offences under sub-section (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of First Class for the purposes of the Code of Criminal Procedure, 1973. 2 of 1974.

(3) Save as otherwise provided, the offences under sub-section (1) shall be tried summarily by the District Commission or the State Commission or the National Commission, as the case may be.

Appeal against order passed under section 72.

73. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where an order is passed under sub-section (1) of section 72, an appeal shall lie, both on facts and on law from— 2 of 1974.

- (a) the order made by the District Commission to the State Commission;
- (b) the order made by the State Commission to the National Commission; and
- (c) the order made by the National Commission to the Supreme Court.

(2) Except as provided in sub-section (1), no appeal shall lie before any court, from any order of a District Commission or a State Commission or the National Commission, as the case may be.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of order of a District Commission or a State Commission or the National Commission, as the case may be:

Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days.

CHAPTER V

MEDIATION

Establishment of consumer mediation cell.

74. (1) The State Government shall establish, by notification, a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State.

(2) The Central Government shall establish, by notification, a consumer mediation cell to be attached to the National Commission and each of the regional Benches.

(3) A consumer mediation cell shall consist of such persons as may be prescribed.

(4) Every consumer mediation cell shall maintain—

- (a) a list of empanelled mediators;
- (b) a list of cases handled by the cell;
- (c) record of proceeding; and
- (d) any other information as may be specified by regulations.

(5) Every consumer mediation cell shall submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached, in the manner specified by regulations.

75. (1) For the purpose of mediation, the National Commission or the State Commission or the District Commission, as the case may be, shall prepare a panel of the mediators to be maintained by the consumer mediation cell attached to it, on the recommendation of a selection committee consisting of the President and a member of that Commission.

Empanelment
of mediators.

(2) The qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and other matters relating thereto, shall be such as may be specified by regulations.

(3) The panel of mediators prepared under sub-section (1) shall be valid for a period of five years, and the empanelled mediators shall be eligible to be considered for re-empanelment for another term, subject to such conditions as may be specified by regulations.

76. The District Commission, the State Commission or the National Commission shall, while nominating any person from the panel of mediators referred to in section 75, consider his suitability for resolving the consumer dispute involved.

Nomination
of mediators
from panel.

77. It shall be the duty of the mediator to disclose—

Duty of
mediator to
disclose
certain facts.

(a) any personal, professional or financial interest in the outcome of the consumer dispute;

(b) the circumstances which may give rise to a justifiable doubt as to his independence or impartiality;

(c) such other facts as may be specified by regulations.

78. Where the District Commission or the State Commission or the National Commission, as the case may be, is satisfied, on the information furnished by the mediator or on the information received from any other person including parties to the complaint and after hearing the mediator, it shall replace such mediator by another mediator.

Replacement
of mediator in
certain cases.

79. (1) The mediation shall be held in the consumer mediation cell attached to the District Commission, the State Commission or the National Commission, as the case may be.

Procedure for
mediation.

(2) Where a consumer dispute is referred for mediation by the District Commission or the State Commission or the National Commission, as the case may be, the mediator nominated by such Commission shall have regard to the rights and obligations of the parties, the usages of trade, if any, the circumstances giving rise to the consumer dispute and such other relevant factors, as he may deem necessary and shall be guided by the principles of natural justice while carrying out mediation.

(3) The mediator so nominated shall conduct mediation within such time and in such manner as may be specified by regulations.

80. (1) Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.

Settlement
through
mediation.

(2) The mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.

(3) Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

Recording
settlement and
passing of
order.

81. (1) The District Commission or the State Commission or the National Commission, as the case may be, shall, within seven days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.

(2) Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.

(3) Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.

CHAPTER VI

PRODUCT LIABILITY

Application of
Chapter.

82. This Chapter shall apply to every claim for compensation under a product liability action by a complainant for any harm caused by a defective product manufactured by a product manufacturer or serviced by a product service provider or sold by a product seller.

Product
liability action.

83. A product liability action may be brought by a complainant against a product manufacturer or a product service provider or a product seller, as the case may be, for any harm caused to him on account of a defective product.

Liability
of product
manufacturer.

84. (1) A product manufacturer shall be liable in a product liability action, if—

- (a) the product contains a manufacturing defect; or
- (b) the product is defective in design; or
- (c) there is a deviation from manufacturing specifications; or
- (d) the product does not conform to the express warranty; or
- (e) the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.

(2) A product manufacturer shall be liable in a product liability action even if he proves that he was not negligent or fraudulent in making the express warranty of a product.

Liability
of product
service
provider.

85. A product service provider shall be liable in a product liability action, if—

- (a) the service provided by him was faulty or imperfect or deficient or inadequate in quality, nature or manner of performance which is required to be provided by or under any law for the time being in force, or pursuant to any contract or otherwise; or
- (b) there was an act of omission or commission or negligence or conscious withholding any information which caused harm; or
- (c) the service provider did not issue adequate instructions or warnings to prevent any harm; or
- (d) the service did not conform to express warranty or the terms and conditions of the contract.

Liability of
product
sellers.

86. (1) A product seller who is not a product manufacturer shall be liable in a product liability action, if—

- (a) he has exercised substantial control over the designing, testing, manufacturing, packaging or labelling of a product that caused harm; or
- (b) he has altered or modified the product and such alteration or modification was the substantial factor in causing the harm; or
- (c) he has made an express warranty of a product independent of any express warranty made by a manufacturer and such product failed to conform to the express warranty made by the product seller which caused the harm; or

(d) the product has been sold by him and the identity of product manufacturer of such product is not known, or if known, the service of notice or process or warrant cannot be effected on him or he is not subject to the law which is in force in India or the order, if any, passed or to be passed cannot be enforced against him; or

(e) he failed to exercise reasonable care in assembling, inspecting or maintaining such product or he did not pass on the warnings or instructions of the product manufacturer regarding the dangers involved or proper usage of the product while selling such product and such failure was the proximate cause of the harm.

87. (1) A product liability action cannot be brought against the product seller if, at the time of harm, the product was misused, altered, or modified.

Exceptions to product liability action.

(2) In any product liability action based on the failure to provide adequate warnings or instructions, the product manufacturer shall not be liable, if—

(a) the product was purchased by an employer for use at the workplace and the product manufacturer had provided warnings or instructions to such employer;

(b) the product was sold as a component or material to be used in another product and necessary warnings or instructions were given by the product manufacturer to the purchaser of such component or material, but the harm was caused to the complainant by use of the end product in which such component or material was used;

(c) the product was one which was legally meant to be used or dispensed only by or under the supervision of an expert or a class of experts and the product manufacturer had employed reasonable means to give the warnings or instructions for usage of such product to such expert or class of experts; or

(d) the complainant, while using such product, was under the influence of alcohol or any prescription drug which had not been prescribed by a medical practitioner.

(3) A product manufacturer shall not be liable for failure to instruct or warn about a danger which is obvious or commonly known to the user or consumer of such product or which, such user or consumer, ought to have known, taking into account the characteristics of such product.

CHAPTER VII

OFFENCES AND PENALTIES

88. Whoever, fails to comply with any direction of the Central Authority under sections 20 and 21, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty lakh rupees, or with both.

Penalty for non-compliance of direction of Central Authority.

89. Any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees.

Punishment for false or misleading advertisement.

90. (1) Whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any product containing an adulterant shall be punished, if such act—

Punishment for manufacturing for sale or storing, selling or distributing or importing products containing adulterant.

(a) does not result in any injury to the consumer, with imprisonment for a term which may extend to six months and with fine which may extend to one lakh rupees;

(b) causing injury not amounting to grievous hurt to the consumer, with imprisonment for a term which may extend to one year and with fine which may extend to three lakh rupees;

(c) causing injury resulting in grievous hurt to the consumer, with imprisonment for a term which may extend to seven years and with fine which may extend to five lakh rupees;

(d) results in the death of a consumer, with imprisonment for a term which shall not be less than seven years, but which may extend to imprisonment for life and with fine which shall not be less than ten lakh rupees.

(2) The offences under clauses (c) and (d) of sub-section (1) shall be cognizable and non-bailable.

(3) Notwithstanding the punishment under sub-section (1), the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to two years, and in case of second or subsequent conviction, cancel the licence.

Explanation.—For the purposes of this section,—

(a) “adulterant” means any material including extraneous matter which is employed or used for making a product unsafe;

(b) “grievous hurt” shall have the same meaning as assigned to it in section 320 of the Indian Penal Code.

45 of 1860.

Punishment for manufacturing for sale or for storing or selling or distributing or importing spurious goods.

91. (1) Whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any spurious goods shall be punished, if such act—

(a) causing injury not amounting to grievous hurt to the consumer, with imprisonment for a term which may extend to one year and with fine which may extend to three lakh rupees;

(b) causing injury resulting in grievous hurt to the consumer, with imprisonment for a term which may extend to seven years and with fine which may extend to five lakh rupees;

(c) results in the death of a consumer, with imprisonment for a term which shall not be less than seven years, but may extend to imprisonment for life and with fine which shall not be less than ten lakh rupees.

(2) The offences under clauses (b) and (c) of sub-section (1) shall be cognizable and non-bailable.

(3) Notwithstanding the punishment under sub-section (1), the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to two years, and in case of second or subsequent conviction, cancel the licence.

Cognizance of offence by court.

92. No cognizance shall be taken by a competent court of any offence under sections 88 and 89 except on a complaint filed by the Central Authority or any officer authorised by it in this behalf.

Vexatious search.

93. The Director General or any other officer, exercising powers under section 22, who knows that there are no reasonable grounds for so doing, and yet—

(a) searches, or causes to be searched any premises; or

(b) seizes any record, register or other document or article,

shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

CHAPTER VIII

MISCELLANEOUS

94. For the purposes of preventing unfair trade practices in e-commerce, direct selling and also to protect the interest and rights of consumers, the Central Government may take such measures in the manner as may be prescribed.

Measures to prevent unfair trade practices in e-commerce, direct selling, etc.

95. The Presidents and members of the District Commission, the State Commission and the National Commission, and officers and other employees thereof, the Chief Commissioner and the Commissioner of the Central Authority, the Director General, the Additional Director General, the Director, the Joint Director, the Deputy Director and the Assistant Director and all other officers and employees of the Central Authority and other persons performing any duty under this Act, while acting or purporting to act in pursuance of any of the provisions of this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Presidents, members, Chief Commissioner, Commissioner and certain officers to be public servants.

45 of 1860.

96. (1) Any offence punishable under sections 88 and 89, may, either before or after the institution of the prosecution, be compounded, on payment of such amount as may be prescribed:

Compounding of offences.

Provided that no compounding of such offence shall be made without the leave of the court before which a complaint has been filed under section 92:

Provided further that such sum shall not, in any case, exceed the maximum amount of the fine, which may be imposed under this Act for the offence so compounded.

(2) The Central Authority or any officer as may be specially authorised by him in this behalf, may compound offences under sub-section (1).

(3) Nothing in sub-section (1) shall apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(4) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded.

(5) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Central Authority or an officer of the Central Authority empowered in this behalf shall be deemed to amount to an acquittal within the meaning of the Code of Criminal Procedure, 1973.

2 of 1974.

97. The penalty collected under section 21 and the amount collected under section 96 shall be credited to such fund as may be prescribed.

Manner of crediting penalty.

98. No suit, prosecution or other legal proceedings shall lie against the Presidents and members of the District Commission, the State Commission and the National Commission, the Chief Commissioner, the Commissioner, any officer or employee and other person performing any duty under this Act, for any act which is in good faith done or intended to be done in pursuance of this Act or under any rule or order made thereunder.

Protection of action taken in good faith.

Power to give directions by Central Government.

99. (1) Without prejudice to the foregoing provisions of this Act, the Central Authority, shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time:

Provided that the Central Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Act not in derogation of any other law.

100. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power of Central Government to make rules.

101. (1) The Central Government may, by notification, make rules for carrying out any of the provisions contained in this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for, —

(a) the other class or classes of persons including public utility entities under clause (19) of section 2;

(b) the contest, lottery, game of chance or skill which are to be exempted under item (b) of sub-clause (iii) of clause (47) of section 2;

(c) the manner of issuing bill or cash memo or receipt for goods sold or services rendered under sub-clause (vii) of clause (47) of section 2;

(d) the number of other official or non-official members of the Central Council under clause (b) of sub-section (2) of section 3;

(e) the time and place of meeting of Central Council and the procedure for the transaction of its business under sub-section (2) of section 4;

(f) the number of Commissioners in the Central Authority under sub-section (2) of section 10;

(g) the qualifications for appointment, method of recruitment, procedure of appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chief Commissioner and other Commissioners of the Central Authority under section 11;

(h) the salary and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Central Authority under sub-section (2) of section 13;

(i) the qualifications for appointment of Director General, Additional Director General, Director, Joint Director, Deputy Director and Assistant Director and the manner of appointment under sub-section (2) of section 15;

(j) the manner of taking copies or extracts of document, record or article seized or produced before returning to the person under sub-section (3) of section 22;

(k) the officer and the manner of disposing of articles which are subject to speedy or natural decay under sub-section (4) of section 22;

(l) the form and manner for preparing annual statement of accounts by the Central Authority in consultation with the Comptroller and Auditor-General of India under sub-section (1) of section 26;

(m) the form in which, and the time within which, an annual report, other reports and returns may be prepared by the Central Authority under sub-section (1) of section 27;

(n) the qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the District Commission under section 29;

(o) the other value of goods and services in respect of which the District Commission shall have jurisdiction to entertain complaints under proviso to sub-section (1) of section 34;

(p) the manner of electronically filing complaint under the proviso to sub-section (1) of section 35;

(q) the fee, electronic form and the manner of payment of fee for filing complaint under sub-section (2) of section 35;

(r) the cases which may not be referred for settlement by mediation under sub-section (1) of section 37;

(s) the manner of authentication of goods sampled in case of the National Commission under clause (c) of sub-section (2) of section 38;

(t) any other matter which may be prescribed under clause (f) of sub-section (9) of section 38;

(u) the fund where the amount obtained may be credited and the manner of utilisation of such amount under sub-section (2) of section 39;

(v) the form and the manner in which appeal may be preferred to the State Commission under section 41;

(w) the qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the State Commission under sub-section (4) of section 43;

(x) the other value of goods and services in respect of which the State Commission shall have jurisdiction under proviso to sub-clause (i) of clause (a) of sub-section (1) of section 47;

(y) the form and manner of filing appeal to the National Commission, and the manner of depositing fifty per cent. of the amount before filing appeal, under sub-section (1) of section 51;

(z) the number of members of the National Commission under clause (b) of sub-section (1) of section 54;

(za) the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the President and members of the National Commission under sub-section (1) of section 55;

(zb) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the National Commission under sub-section (3) of section 57;

(zc) the other value of goods and services in respect of which the National Commission shall have jurisdiction under proviso to sub-clause (i) of clause (a) of sub-section (1) of section 58;

(zd) the manner of depositing fifty per cent. of the amount under second proviso to section 67;

(ze) the form in which the National Commission and the State Commission shall furnish information to the Central Government under sub-section (4) of 70;

(zf) the persons in the consumer mediation cell under sub-section (3) of section 74;

(zg) the measures to be taken by the Central Government to prevent unfair trade practices in e-commerce, direct selling under section 94;

(zh) the amount for compounding offences under sub-section (1) of section 96;

(zi) the fund to which the penalty and amount collected shall be credited under section 97; and

(zj) any other matter which is to be, or may be prescribed, or in respect of which provisions are to be, or may be, made by rules.

Power of State
Government
to make rules.

102. (1) The State Governments may, by notification, make rules for carrying out the provisions of this Act:

Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this section, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the State Government and while making any such rules, so far as is practicable, they shall conform to such model rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the other class or classes of persons including public utility entities under clause (19) of section 2;

(b) the contest, lottery, game of chance or skill which are to be exempted under item (b) of sub-clause (iii) of clause (47) of section 2;

(c) the number of other official or non-official members of the State Council under clause (b) of sub-section (2) of section 6;

(d) the time and place of meeting of the State Council and the procedure for the transaction of its business under sub-section (4) of section 6;

(e) the number of other official and non-official members of the District Council under clause (b) of sub-section (2) of section 8;

(f) the time and place of meeting of the District Council and procedure for the transaction of its business under sub-section (4) of section 8;

(g) the number of members of the District Commission under clause (b) of sub-section (2) of section 28;

(h) the salaries and allowances payable to, and other terms and conditions of service of, the President and members of the District Commission under section 30;

(i) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the District Commission under sub-section (3) of section 33;

(j) the manner of authentication of goods sampled by the State Commission and the District Commission under clause (c) of sub-section (2) of section 38;

(k) the manner of depositing fifty per cent. of the amount before filing appeal under second proviso to section 41;

(l) the number of members of the State Commission under sub-section (3) of section 42;

(m) the salary and allowances payable to, and other terms and conditions of service of, the President and members of the State Commission under section 44;

(*n*) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the State Commission under sub-section (3) of section 46;

(*o*) the form in which the State Commission shall furnish information to the State Government under sub-section (5) of section 70;

(*p*) the persons in the consumer mediation cell under sub-section (3) of section 74;

(*q*) any other matter which is to be, or may be prescribed, or in respect of which provisions are to be, or may be, made by rules.

103. (1) The National Commission may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power of
National
Commission
to make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provisions for—

(*a*) the costs for adjournment to be imposed by the District Commission under the second proviso to sub-section (7) of section 38;

(*b*) the costs for adjournment to be imposed by the State Commission or the National Commission, as the case may be, under the second proviso to section 52;

(*c*) the maintenance of any other information by the consumer mediation cell under sub-section (4) of section 74;

(*d*) the manner of submission of quarterly report by consumer mediation cell to the District Commission, the State Commission or the National Commission under sub-section (5) of section 74;

(*e*) the qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and the other matters relating thereto under sub-section (2) of section 75;

(*f*) the conditions for re-empanelment of mediators for another term under sub-section (3) of section 75;

(*g*) the other facts to be disclosed by mediators under clause (*c*) of section 77;

(*h*) the time within which, and the manner in which, mediation may be conducted under sub-section (3) of section 79; and

(*i*) such other matter for which provision is to be, or may be made by regulation.

104. (1) The Central Authority may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act, for the purpose of giving effect to the provisions of this Act.

Power of
Central
Authority
to make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the procedure for engaging experts and professionals and the number of such experts and professionals under sub-section (3) of section 13;

(*b*) the procedure for transaction of business and the allocation of business of the Chief Commissioner and Commissioner under sub-section (1) of section 14;

(c) the form, manner and time within which, inquiries or investigation made by the Director General shall be submitted to the Central Authority under sub-section (5) of section 15; and

(d) such other matter for which provision is to be, or may be made by regulation.

Rules and regulations to be laid before each House of Parliament.

105. (1) Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.

Power to remove difficulties.

106. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Repeal and savings.

107. (1) The Consumer Protection Act, 1986 is hereby repealed.

68 of 1986.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have done or taken under the Act hereby repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

STATEMENT OF OBJECTS AND REASONS

The Consumer Protection Act, 1986 was enacted to provide for better protection of the interests of consumers and for the purpose of making provision for establishment of consumer protection councils and other authorities for the settlement of consumer disputes, etc. Although, the working of the consumer dispute redressal agencies has served the purpose to a considerable extent under the said Act, the disposal of cases has not been fast due to various constraints. Several shortcomings have been noticed while administering the various provisions of the said Act.

2. Consumer markets for goods and services have undergone drastic transformation since the enactment of the Consumer Protection Act in 1986. The modern market place contains a plethora of products and services. The emergence of global supply chains, rise in international trade and the rapid development of e-commerce have led to new delivery systems for goods and services and have provided new options and opportunities for consumers. Equally, this has rendered the consumer vulnerable to new forms of unfair trade and unethical business practices. Misleading advertisements, tele-marketing, multi-level marketing, direct selling and e-commerce pose new challenges to consumer protection and will require appropriate and swift executive interventions to prevent consumer detriment. There is, therefore, a need to amend the Act to address the myriad and constantly emerging vulnerabilities of the consumers. In view of the above, it is proposed to repeal and re-enact the Act.

3. The Consumer Protection Bill, 2018 provides for the establishment of an executive agency to be known as the Central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers; make interventions when necessary to prevent consumer detriment arising from unfair trade practices and to initiate class action including enforcing recall, refund and return of products, etc. This fills an institutional void in the regulatory regime extant. Currently, the task of prevention of or acting against unfair trade practices is not vested in any authority. This has been provided for in a manner that the role envisaged for the CCPA complements that of the sector regulators and duplication, overlap or potential conflict is avoided.

4. The Bill also envisages provisions for product liability action on account of harm caused to consumers due to a defective product or by deficiency in services. Further, provision of “Mediation” as an Alternate Dispute Resolution Mechanism has also been provided.

5. The Bill provides for several provisions aimed at simplifying the consumer dispute adjudication process of the Consumer Disputes Redressal Agencies, *inter alia*, relating to enhancing the pecuniary jurisdiction of the Consumer Disputes Redressal Agencies; increasing minimum number of Members in the State Consumer Disputes Redressal Commissions and provisions for consumers to file complaints electronically, etc.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;

RAM VILAS PASWAN

The 23rd December, 2017.

Notes on clauses

Clause 1.—This clause provides for the short title and commencement and application of the proposed legislation.

Clause 2.—This clause provides for the definition of the expressions used in the proposed legislation.

Clause 3.—This clause provides for establishment of a Central Consumer Protection Council by the Central Government, which shall be an advisory council. It also provides its composition.

Clause 4.—This clause provides for the procedure for meetings of Central Council.

Clause 5.—This clause provides for the objects of Central Council, which shall be to render advice on promotion and protection of the consumers' rights.

Clause 6.—This clause provides for establishment of State Council by the State Governments, which shall be an advisory council. It also provides its composition.

Clause 7.—This clause provides for the objects of the State Council, which shall be to render advice on promotion and protection of the consumers' rights.

Clause 8.—This clause provides for establishment of District Consumer Protection Councils by the State Governments, which shall be advisory councils.

Clause 9.—This clause provides for the objects of the District Consumer Protection Councils, which shall render advice on promotion and protection of the consumers' rights.

Clause 10.—This clause provides for establishment of Central Consumer Protection Authority, its composition a Chief Commissioner and such number of other Commissioners as may be prescribed, and its headquarter and regional and other offices.

Clause 11.—This clause provides that the Central Government may, by notification, make rules to provide for the qualifications for appointment, method of recruitment, procedure for appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of the service of the Chief Commissioner and Commissioners of the Central Authority.

Clause 12.—This clause provides that vacancy etc., in the Central Authority shall not to invalidate proceedings of Central Authority.

Clause 13.—This clause provides that the Central Government shall provide the Central Authority such number officers and other employees as it considers necessary for the efficient performance of its functions under this legislation, and empowers the Central Government to prescribe the salary and allowances and the other terms and conditions of service of, the officers and other employees of the Central Authority and also empowers the Central Authority to engage, in accordance with the procedure specified by regulations, such number of experts and professionals to assist it in the discharge of its functions.

Clause 14.— This clause provides that the Central Authority shall regulate the procedure for transaction of its business and allocation of its business among Chief Commissioner and Commissioners as may be specified by regulations.

Clause 15.—This clause provides for setting up of an Investigation Wing in the Central Authority headed by a Director General and with such number of Additional Director General, Director, Joint Director, Deputy Director and Assistant Director, and delegation of powers by Director General to them, as the case may be, while conducting inquiries or investigations. The form and manner of investigation or inquiry by Director General and submit to Central Authority as may be specified by regulations.

Clause 16.— This clause provides for powers of the District Collector on matters relating to violations of consumer rights, unfair trade practices and false or misleading advertisements, within his jurisdiction and submit his report to the Central Authority or to the Commissioner of a regional office, as the case may be.

Clause 17.—This clause provides for filing of complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, before the District Collector or the Commissioner of regional office of the Central Authority.

Clause 18.—This clause provides for the powers and functions of the Central Authority.

Clause 19.—This clause provides for the power of Central Authority to cause investigation to be made by the Director General or by the District Collector or to refer matter for investigation to other Regulator.

Clause 20.— This clause provides for the power of Central Authority to recall goods, or withdrawal of services which are dangerous, hazardous or unsafe; reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and discontinuation of practices which are unfair and prejudicial to consumers' interest.

Clause 21.—This clause provides for the power of Central Authority to issue directions against false or misleading advertisements including imposition of penalties.

Clause 22.—This clause provides for the power of the Director General or any other officer authorised by him or the District Collector for search and seizure after preliminary inquiry if there is any reason to believe that any person has violated any consumer rights or committed unfair trade practice or causes any false or misleading advertisement.

Clause 23.— This clause provides that the Central Government may, if it considers necessary, by notification, designate any statutory authority or body to exercise the powers and perform the functions of the Central Authority referred to in clause 10.

Clause 24.—This clause provides for preferring appeal to the National Commission against any order passed by the Central Authority under clauses 20 and 21.

Clause 25.—This clause provides for making provision of grants by the Central Government to the Central Authority for being utilised for the purposes of this Act.

Clause 26.—This clause provides for maintenance of proper accounts and other relevant records, preparation of an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Clause 27.—This clause provides that the Central Authority shall submit an annual report on its functioning and performance and such other reports and returns as may be directed, and copies of such reports and returns shall be forwarded to the Central Government.

Clause 28.—This clause provides for establishment of District Consumer Disputes Redressal Commission at the District level by the State Government with a President and not less than two members and not more than such number of members as may be prescribed in consultation with Central Government in each District Commission. This clause also empowers the State Government to establish more than one District Commission in a district.

Clause 29.—This clause provides that the Central Government may, by notification, make rules to provide for the qualifications, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the District Commission.

Clause 30.— This clause provides that the State Government may, by notification, make rules to provide for salaries and allowances and other terms and conditions of service of the President, and members of the District Commission.

Clause 31.—This clause provides that any person appointed as President or, as the case may be, a member of the District Commission immediately before the commencement of this Act shall continue to hold office as such as President, as the case may be, as member till the completion of his term for which he has been appointed.

Clause 32.—This clause empowers the State Government to fill up the casual vacancies and other vacancies in the office of the President or member of a District Commission, direct any other District Commission to exercise the jurisdiction in respect of that district also; or the President or a member of any other District Commission to exercise the powers and discharge the functions of the President or member of that District Commission also.

Clause 33.—This clause makes provision for the State Government to provide the District Commission with such officers and other employees as may be required to assist the District Commission in the discharge of its functions and that the officers and other employees of the District Commission shall discharge their functions under the general superintendence of the President of the District Commission. This clause also makes provision for prescribing the salaries and allowances and the other terms and conditions of service of the officers and other employees of the District Commission by the State Government.

Clause 34.—This clause provides for the pecuniary and geographical jurisdiction for filing of complaints in the District Commission. The pecuniary jurisdiction shall be for value of goods or services not exceeding one crore rupees. A consumer may file a complaint in a District Commission within the local limits of whose jurisdiction he resides or personally works for gain. This clause also makes provision for Circuit Benches of District Commission.

Clause 35.—This clause provides the manner in which complaint shall be made including enabling provision for filing of complaints electronically, fee to be prescribed for filing of complaints.

Clause 36.—This clause provides for the manner of conducting proceedings by the District Commission and includes time limit of twenty-one days for admissibility of complaints, deemed admissibility of complaints if admissibility is not decided within the said twenty-one days.

Clause 37.—This clause provides for reference by the District Commission of a complaint for mediation with the consent of both the parties to the dispute.

Clause 38.—This clause provides for the procedure on admission of a complaint by the District Forum.

Clause 39.—This clause provides for finding of the District Commission, after the proceeding has been conducted in a complaint if the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices are proved. This clause specifies the relief or compensation, a District Commission may grant to a consumer.

Clause 40.—This clause provides that a District Commission shall have the power to review its orders if there is any error apparent on the face of record.

Clause 41.—This clause provides for appeal against order of the District Commission to the State Commission on the grounds of facts or law in such form and manner as may be prescribed; entertaining appeals by the State Commission after the expiry of the period of thirty days on being satisfied that there was sufficient cause for not filing it within that period; entertaining appeal by the State Commission only after the appellant has deposited in the prescribed manner fifty per cent. of the amount ordered to be paid to the complainant; barring appeal from an order passed under clause 80 on the basis of settlement reached between the parties.

Clause 42.—This clause provides for establishment of State Commission by the State Government, setting up of regional benches of the State Commission, composition of the

State Commission having a President and not less than four and not more than such number of members, as may be prescribed by the State Government in consultation with the Central Government.

Clause 43.—This clause empowers the Central Government to make rules for the qualification for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the State Commission.

Clause 44.— This clause provides that the State Government will make rules to provide for salaries and allowances and other terms and conditions of service of the President and members of the State Commission.

Clause 45.—This clause provides that any person appointed as President or, as the case may be, a member of the State Commission immediately before the commencement of this Act to hold office as such, as President or member, as the case may be, till the completion of his term.

Clause 46.—This clause makes provision for the State Government to provide officers and other employees required to assist the State Commission in the discharge of its functions and also to prescribe the salaries and allowances payable to and the other terms and conditions of service of, the officers and other employees of the State Commission.

Clause 47.—This clause provides for the pecuniary and geographical jurisdiction for filing of complaints in the State Commission. The pecuniary jurisdiction shall be for value of goods or services exceeds rupees one core but does not exceed rupees ten crore. It also provides that a consumer can file a complaint in State Commission within the local limits of whose jurisdiction he resides or personally works for gain.

Clause 48.—This clause empowers the State Commission, at any stage of the proceeding, to transfer any complaint pending before the District Commission to another District Commission within the State if the interest of justice so requires.

Clause 49.—This clause provides that the provisions under clauses 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable for the disposal of disputes by the State Commission and that the State Commission will deal with matters relating to declaring any terms of contract, which is unfair to any consumer, to be *null* and *void*.

Clause 50.—This clause empowers the State Commission to review any order made by it, if there is an error apparent on the face of record either of its own motion or on an application made by any of the parties within thirty days of such order.

Clause 51.—This clause provides for appeal against the order of the State Commission to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed if the appeal involves a substantial question of law; entertaining the appeal by the National Commission after the expiry of the period of thirty days on being satisfied that there was sufficient cause for not filing it within that period; entertaining the appeal by the National Commission only after the appellant has deposited in the prescribed manner fifty per cent. of the amount ordered to be paid.

Clause 52.—This clause provides for disposal of appeal by the State Commission or the National Commission within a period of ninety days from the date of its admission; not granting of adjournment without sufficient cause; recording of reasons in writing if the appeal is disposed of after the specified period of ninety days.

Clause 53.— This clause provides for establishment of the National Consumer Disputes Redressal Commission by the Central Government, which will ordinarily function in the National Capital Region and perform its functions at such other places as the Central Government may in consultation with the National Commission notify in the Official Gazette. The Central Government to establish regional benches of the National Commission at such places, as it deems fit.

Clause 54.—This clause provides for composition of the National Commission with a President and not less than four and not more than such number of members, as may be prescribed by the Central Government.

Clause 55.—This clause empowers the Central Government may, by notification, to make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the President and members of the National Commission with provision that the President and members of the National Commission shall hold office for such term as specified in the rules made by the Central Government but not exceeding five years from the date on which he enters upon his office and shall be eligible for re-appointment and that no President or member shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed seventy years in the case of the President and sixty-seven years in the case of any other member. Sub-clause (3) of this clause provides that neither the salary and allowances nor the other terms and conditions of service of President and members of the National Commission shall be varied to his disadvantage after his appointment.

Clause 56.—This clause provides that the President and every other member of the National Commission appointed immediately before the commencement of section 177 of the Finance Act, 2017, shall continue to be governed by the provisions of the Consumer Protection Act, 1986 and the rules made thereunder as if this Act had not come into force.

Clause 57.—This clause makes provision for the Central Government to provide the National Commission such number of officers and other employees to assist the National Commission in the discharge of its functions and prescribing the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the National Commission.

Clause 58.—This clause provides for the original and appellate jurisdiction for filing of complaints in the National Commission. The pecuniary jurisdiction will be for value of goods and services exceeding ten crore rupees.

Clause 59.—This clause provides that the provisions relating to complaints under clauses 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of disputes by the National Commission. Sub-clause (2) provides that the National Commission may also declare any terms of contract which is unfair to any consumer to be null and void.

Clause 60.—This clause provides for the National Commission to review its own orders if there is an error apparent on the face of the record.

Clause 61.—This clause provides for the aggrieved party applying to the National Commission setting aside its order passed *ex-parte*.

Clause 62.—This clause empowers the National Commission, at any stage of the proceeding, either on the application of the complainant or of its own motion to transfer any complaint pending before the District Commission of one State to a District Commission of another State or before one State Commission to another State Commission.

Clause 63.—This clause provides that in the case of the position of President in the National Commission is vacant or a person occupying such office is, by reason of absence or otherwise, or the President is unable to perform the duties for any reasons, these shall be performed by the senior-most member of the National Commission.

Clause 64.— This clause provides that no act or proceeding of the District Commission, the State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Clause 65.—This clause provides for the procedure for service of notice, etc.

Clause 66.—This clause provides that in the larger interest of consumers, the National Commission or the State Commission may direct any individual or organisation or expert to assist the National Commission or the State Commission.

Clause 67.—This clause provides for appeal against the order of the National Commission to the Supreme Court; appeal to the Supreme Court only after the appellant has deposited fifty per cent. of the amount ordered by National Commission to be paid in the manner as may be prescribed, etc.

Clause 68.—This clause provides that every order of a District Commission or the State Commission or the National Commission, as the case may be, shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

Clause 69.—This clause provides for a limitation period of two years from the date on which the cause of action has arisen for filing a complaint before the District Commission, the State Commission or the National Commission with further provision that a complaint may be entertained after the limitation period if the complainant satisfies that he had sufficient cause for not filing the complaint within such period. This clause also provides that no such complaint shall be entertained unless the District Commission or the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.

Clause 70. —Sub-clause (1) of this clause provides the administrative control of the National Commission over all the State Commissions and the District Commissions to ensure that the objects and purposes of the Act are best served and the standards set by the National Commission are implemented without interfering with their quasi-judicial freedom. In exercising administrative control, the National Commission will have authority to lay down adequate standards in consultation with the Central Government from time to time for better protection of the interests of consumers; to monitor performance of the State Commission in terms of their disposal by calling for periodical returns regarding the institution, disposal and pendency of cases; investigating into any allegations against the President and Members of a State Commission and submitting inquiry report to the State Government concerned along with copy endorsed to the Central Government for necessary action; issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents; overseeing the functioning of the State Commission or the District Commission either by way of inspection or by any other means the President may like to order from time to time .

Sub-clause (2) provides for constitution of a monitoring cell by the President of the National Commission to oversee the functioning of the State Commissions from the administrative point of view.

Sub-clause (3) provides for the State Commission to have administrative control over all the District Commissions within its jurisdiction in all matters referred to in sub-clauses (1) and (2).

Sub-clause (4) provides for furnishing of any information including the pendency of cases by the National Commission and the State Commission to the Central Government periodically or as and when required.

Sub-clause (5) provides for furnishing of any information including the pendency of cases by the State Commission to the State Government periodically or as and when required.

Clause 71.—This clause provides for enforcement of orders of District Commission, State Commission or National Commission to be in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be, applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under this Act.

Clause 72.—This clause provides for punishment for non-compliance of the orders of the District Commission or the State Commission or the National Commission with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both; the District Commission, the State Commission or the National Commission to have the power of a Judicial Magistrate of the First Class for the trial of offences under sub-clause (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of First Class for the purpose of the Code of Criminal Procedure, 1973. Sub-clause (3) provides summary trial power to the District Commission or the State Commission or National Commission.

Clause 73.—This clause provide for appeal against order passed under section 72. Sub-clause (2) provides no appeal shall lie before any court from any order of a District Commission or a State Commission or the National Commission. Sub-clause (3) provides thirty days time from the date of the order of a District Commission or a State Commission or the National Commission and also provides to condone delay by State Commission or the National Commission or the Supreme Court for entertaining the appeal beyond the thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days.

Clause 74.—This clause provides for establishment of Consumer Mediation Cell attached to the District Commissions, State Commissions and the National Commission and each of the regional benches; Sub-clause (3) empowers the State Government and the Central Government to decide the composition of mediation cell; sub-clause (4) provides that every mediation cell shall maintain a list of empanelled mediators, a list of cases handled by the cell, record of proceeding and any other information as may be specified by regulations and submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached in the manner specified by regulations.

Clause 75.—This clause provides for the procedure of empanelment of mediators in the mediation cell attached to the District Commission or State Commission or National Commission and empanelled mediators shall be valid for five years and eligible to be considered for another term subject to such conditions as may be specified by regulations.

Clause 76.—This clause provides for nominating mediators from the panel, considering their suitability for resolving the consumer dispute involved.

Clause 77.—This clause provides that it shall be the duty of mediator to disclose certain facts which may likely to give rise to a justifiable doubt as to his independence or impartiality.

Clause 78.—This clause provides for replacement of a mediator by the District Commission or the State Commission or the National Commission on the information furnished by the mediator or on the information received from any other person including parties to the complaint and after hearing the mediator.

Clause 79.—This clause provides for the procedure of mediation.

Clause 80.—This clause provides for provisions relating to settlement through mediation and the role of mediator when an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, and in the event where no agreement is reached between the parties.

Clause 81.—This clause provides for passing of order within seven days of the receipt of any settlement by the District Commission, State Commission or National Commission recording that a settlement has been reached between the parties and disposal of the matter; hearing other issues in case of partial settlement of the dispute; continuing hearing all issues where the dispute could not be settled.

Clause 82.—This clause provides for product liability action by a complainant for any harm caused by a defective product manufactured by a product manufacturer or serviced by a product service provider or sold by a product seller.

Clause 83.—This clause states that a product liability action may be brought by a complainant against a product manufacturer or a product service provider or a product seller, as the case may be, for any harm caused to him on account of a defective product.

Clause 84.—This clause provides for the grounds on which a product manufacturer shall be liable in a product liability action.

Clause 85.—This clause provides for the grounds on which a product service provider shall be liable in a product liability action.

Clause 86.—This clause provides for the circumstances under which a product seller who is not a product manufacturer shall be liable in a product liability action.

Clause 87.—This clause provides for exceptions to product liability action against product seller and manufacturer.

Clause 88.—This clause provides for the penalty for non-compliance of direction of Central Authority issued under clauses 20 and 21.

Clause 89.—This clause provides for punishment by a Court for false or misleading advertisement by any manufacturer or service provider with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees.

Clause 90.—This clause provides for higher punishment with imprisonment and fine by a Court to a person who, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any product containing an adulterant, with provision for suspension and cancelation of licence issued to the person.

Clause 91.—This clause provides for graded punishment with imprisonment and fine by a Court to a person who, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any spurious goods, with provision for suspension and cancelation of licence issued to the person.

Clause 92.—This clause provides for a competent court to take cognizance of any offence under clauses 88 and 89 only on a complaint filed by the Central Authority or any officer authorised by it in this behalf.

Clause 93.—This clause provides for punishment for vexatious search by the Director General or any other officer, exercising powers under clause 26, knowingly that there are no reasonable grounds for so doing and yet searches, or causes to be searched any premises or seizes any record, register or other document or article, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

Clause 94.—This clause empowers the Central Government to take such measures in the manner as may be prescribed for the purposes of preventing unfair trade practices in e-commerce, direct selling and also to protect the interest and rights of consumers.

Clause 95.—This clause provides that the Presidents, members, officers and other employees of the District Commission, the State Commission and the National Commission, the Chief Commissioner and all other officers and employees of the Central Authority and other persons performing any duty under the proposed legislation, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 96.—This clause provides for compounding of offences punishable under sections 88 and 89 by the Central Authority either before or after the institution of the prosecution on payment of such amount as may be prescribed.

Clause 97.—This clause provides for the manner of crediting penalty collected under clause 21 and the amount collected under clause 96.

Clause 98.—This clause makes provision for protection of action taken in good faith by the members of the District Commission, the State Commission or the National Commission or the Chief Commissioner, the Commissioner, any officer or employee and other person performing any duty under the proposed legislation.

Clause 99.—This clause empowers the Central Government to give directions on questions of policy to the Central Authority.

Clause 100.—This clause provides that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Clause 101.—This clause provides for the power to the Central Government to make rules.

Clause 102.—This clause provides for the power to the State Governments, to make rules, conforming to the model rules made by the Central Government.

Clause 103.—This clause empowers the National Commission to make regulations not inconsistent with the proposed legislation to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of the proposed legislation, with previous approval of the Central Government.

Clause 104.—This clause empowers the Central Authority to make regulations consistent with this Act, for the purpose of giving effect to the provisions of this Act, with the previous approval of the Central Government.

Clause 105.—This clause provides for laying of every rule and every regulation made by the Central Government, the National Commission and the Central Authority under the proposed legislation before each House of Parliament and also every rule made by a State Government before the State Legislature.

Clause 106.—This clause provides for the power to remove difficulties that may arise in giving effect to the provisions of the proposed legislation.

Clause 107.—This clause provides for repeal and savings.

FINANCIAL MEMORANDUM

Clause 10 seeks to establish an authority to be known as the Central Consumer Protection Authority (Central Authority) to be headed by a Chief Commissioner and such number of other Commissioners to exercise powers and discharge functions under the proposed legislation.

2. Clause 11 provides for making rules by the Central Government in regard to the qualifications for appointment, method of recruitment, procedure for appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of the service of the Chief Commissioner and Commissioners of the Central Authority.

3. Clause 13 provides that the Central Government shall provide the Central Authority such number of officers and other employees as it considers necessary for the efficient performance of its functions and the salary and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Central Authority. It also provides that the Central Authority may engage, in accordance with the procedure specified by regulations, such number of experts and professionals as it deems necessary to assist it in the discharge of its functions.

4. Clause 15 provides that the Central Authority shall have an Investigation Wing for the purpose of conducting inquiry or investigation and may appoint a Director-General and such number of Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director.

5. Clause 30 provides for the salaries and allowances payable to, and other terms and conditions of service of, the President and members of District Commission to be prescribed by the State Government.

6. Clause 33 provides that the State Government shall provide the District Commission such officers and other employees to assist the District Commission in the discharge of its functions and the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the District Commission shall be prescribed by the State Government.

7. Clause 44 provides for the salaries and allowances payable to, and other terms and conditions of service of, the President and members of the State Commissions to be prescribed by the State Government.

8. Clause 46 provides that the State Government shall provide the State Commission such officers and other employees to assist the State Commission in the discharge of its functions and the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the State Commission shall be prescribed by the State Government.

9. Clause 55 provides that the Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the President and members of the National Commission.

10. Sub-clause (1) of clause 57 provides that the Central Government, in consultation with the President of the National Commission shall provide such number of officers and other employees to assist the National Commission in discharge of its functions as it may think fit. Sub-clause (3) provides that the salaries and allowances payable to, and the other terms and conditions of the service of, the officers and other employees of the National Commission shall be as may be prescribed by the Central Government.

11. Sub-clause (2) of clause 70 seeks to set up a monitoring cell to be constituted by the President of the National Commission to oversee the functioning of the State Commissions from the administrative point of view.

12. Sub-clause (1) of clause 74 provides that the State Government shall establish a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State. Sub-clause (2) provides that the Central Government shall establish a consumer mediation cell to be attached to the National Commission. Sub-clause (3) provides that a consumer mediation cell shall consist of such persons as may be prescribed.

13. The financial implications arising from the establishment of the proposed Central Consumer Protection Authority is estimated at an annual recurring expenditure of eight hundred lakhs to cover operating costs including salaries and allowances. Appropriate Budgetary allocations shall be made to meet this expenditure from the annual budget of the Department of Consumer Affairs.

14. It would be difficult to indicate the exact expenditure involved in the appointment of additional members and officers and employees of the District Commission and the State Commission as this would depend upon the actual number of such members or officers and other employees appointed by the State Governments. However, the expenditure on this account would be incurred by the State Governments. The Bill does not envisage any other expenditure of recurring or non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 101 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for the purpose of carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include—(a) the other class or classes of persons including public utility entities under sub-clause (19) of clause 2; (b) the contest, lottery, game of chance or skill which are to be exempted under sub-item (b) of item (iii) of sub-clause (47) of clause 2; (c) the manner of issuing bill or cash memo or receipt for goods sold or services rendered under item (vii) of sub-clause (47) of clause 2; (d) the number of other official or non-official members of the Central Council under item (b) of sub-clause (2) of clause 3; (e) the time and place of meeting of Central Council and the procedure for the transaction of its business under sub-clause (2) of clause 4; (f) the number of Commissioners in the Central Authority under sub-clause (2) of clause 10; (g) the qualifications for appointment, method of recruitment, procedure for appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chief Commissioner and other Commissioners of the Central Authority under clause 11; (h) the salary and allowances payable to, and the other terms and conditions of service of, the officers and other employees of Central Authority under sub-clause (2) of clause 13; (i) the qualifications for appointment of Director General, Additional Director General, Director, Joint Director, Deputy Director and Assistant Director and the manner of appointment under sub-clause (2) of clause 15; (j) the manner of taking copies or extracts of document, record or article seized or produced before returning to the person under sub-clause (3) of clause 22; (k) the officer and the manner of disposing of articles which are subject to speedy or natural decay under sub-clause (4) of clause 22; (l) the form and manner for preparing annual statement of accounts by Central Authority in consultation with the Comptroller and Auditor-General of India under sub-clause (1) of clause 26; (m) the form, the manner in which, and the time within which, an annual report, other reports and returns may be prepared by the Central Authority under sub-clause (1) of clause 27; (n) the qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of President and members of the District Commission under clause 29; (o) the other value of goods and services in respect of which the District Commission shall have jurisdiction to entertain complaints under proviso to sub-clause (1) of clause 34; (p) the manner of electronically filing complaint under the proviso to sub-clause (1) of clause 35; (q) the fee, electronic form and the manner of payment of fee for filing complaint under sub-clause (2) of clause 35; (r) the cases which may not be referred for settlement by mediation under sub-clause (1) of clause 37; (s) the manner of authentication of goods sampled in case of National Commission under item (c) of sub-clause (2) of clause 38; (t) any other matter which may be prescribed under item (f) of sub-clause (9) of clause 38; (u) the fund where the amount obtained may be credited and the manner of utilisation of such amount under sub-clause (2) of clause 39; (v) the form and the manner in which appeal may be preferred to the State Commission under clause 41; (w) the qualifications for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission under clause 43; (x) the other value of goods and services in respect of which the State Commission shall have jurisdiction under proviso to sub-item (i) of item (a) of sub-clause (1) of clause 47; (y) the form and manner of filing appeal to the National Commission, and the manner of depositing fifty per cent. of the amount before filing appeal, under sub-clause (1) of clause 51; (z) the number of members of the National Commission under item (b) of clause 54; (za) the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of President and members of the National Commission under sub-clause (1) of clause 55; (zb) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the National Commission under sub-clause (3) of clause 57; (zc) the other value of goods and services in respect of which the National Commission shall have jurisdiction under proviso to sub-item (i) of item (a) of sub-clause (1) of clause 58; (zd) the manner of depositing fifty per cent. of the amount under second proviso to clause 67; (ze) the form and the manner in which the

National Commission and the State Commission shall furnish information to the Central Government under sub-clause (4) of clause 70; (zf) the persons in the consumer mediation cell under sub-clause (3) of clause 74; (zg) the measures to be taken by the Central Government to prevent unfair trade practices in e-commerce, direct selling, etc., under clause 94; (zh) the amount for compounding offences under sub-clause (1) of clause 96; (zi) the fund to which the penalty and amount collected shall be credited under clause 97; and (zj) any other matter which is to be, or may be prescribed, or in respect of which provisions are to be, or may be, made by rules.

2. Sub-clause (1) of clause 102 of the Bill empowers the State Government to make, by notification in the Official Gazette, rules for the purpose of carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include— (a) the other class or classes of persons including public utility entities under sub-clause (19) of clause 2; (b) the contest, lottery, game of chance or skill which are to be exempted under sub-item (b) of item (iii) of sub-clause (47) of clause 2; (c) the number of other official or non-official members of the State Council under item (b) of sub-clause (2) of clause 6; (d) the time and place of meeting of the State Council and the procedure for the transaction of its business under sub-clause (4) of clause 6; (e) the number of other official and non-official members of District Council under item (b) of sub-clause (2) of clause 8; (f) the time and place of meeting of the District Council and procedure for the transaction of its business under sub-clause (4) of clause 8; (g) the number of members of the District Commission under item (b) of sub-clause (2) of clause 28; (h) the salaries and allowances payable to, and other terms and conditions of service of, the President and members of the District Commission under clause 30; (i) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the District Commission under sub-clause (3) of clause 33; (j) the manner of authentication of goods sampled by the State Commission and the District Commission under item (c) of sub-clause (2) of clause 38; (k) the manner of depositing fifty per cent. of the amount before filing appeal under the second proviso to clause 41; (l) the number of members of the State Commission under sub-clause (3) of clause 42; (m) the salary and allowances payable to, and other terms and conditions of service of, the President and members of the State Commission under clause 44; (n) the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the State Commission under sub-clause (3) of clause 46; (o) the form and the manner in which the State Commission shall furnish information to the State Government under sub-clause (5) of clause 70; (p) the persons in the consumer mediation cell under sub-clause (3) of clause 74; (q) any other matter which is to be, or may be prescribed, or in respect of which provisions are to be, or may be, made by rules.

3. Sub-clause (1) of clause 103 of the Bill empowers the National Commission, with the previous approval of the Central Government, to make regulations not inconsistent with the proposed legislation to provide for all the matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of the proposed legislation. Sub-clause (2) provides that the regulations may make provisions for — (a) the costs for adjournment to be imposed by the District Commission under the second proviso to sub-clause (7) of clause 38; (b) the costs for adjournment to be imposed by the State Commission or the National Commission, as the case may be, under the second proviso to clause 52; (c) the maintenance of any other information by the consumer mediation cell under sub-clause (4) of clause 74; (d) the manner of submission of quarterly report by consumer mediation cell to District Commission, State Commission or the National Commission under sub-clause (5) of clause 74; (e) the qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and the other matters relating thereto under sub-clause (2) of clause 75; (f) the conditions for re-empanelment of mediators for another

term under sub-clause (3) of clause 75; (g) the other facts to be disclosed by mediators under sub-clause (c) of clause 77; (h) the time within which, and the manner in which, mediation may be conducted under sub-clause (3) of clause 79; and (i) such other matter for which provision is to be, or may be made by regulation.

4. Sub-clause (1) of clause 104 of the Bill empowers the Central Authority, with the previous approval of the Central Government, to make regulations not inconsistent with the proposed legislation, for the purpose of giving effect to the provisions of this legislation. Sub-clause (2) provides that the regulations may make provisions for – (a) the procedure for engaging experts and professionals and the number of such experts and professionals under sub-clause (3) of clause 13; (b) the procedure for transaction of business and the allocation of business of the Chief Commissioner and Commissioner under sub-clause (1) of clause 14; (c) the form, manner and time within which, inquiries or investigation made by the Director General shall be submitted to the Central Authority under sub-clause (5) of clause 15; and (d) such other matter for which provision is to be, or may be made by regulation.

5. The matters in respect of which rules and regulations may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 2 OF 2018

A bill to provide for the establishment and incorporation of New Delhi International Arbitration Centre for the purpose of creating an independent and autonomous regime for institutionalised arbitration and for acquisition and transfer of undertakings of the International Centre for Alternative Dispute Resolution and to vest such undertakings in the New Delhi International Arbitration Centre for the better management of arbitration so as to make it a hub for institutional arbitration and to declare the New Delhi International Arbitration Centre to be an institution of national importance and for matters connected therewith or incidental thereto.

WHEREAS dispute resolution process has a huge impact on the Indian economy and global perception on doing business in our country and it has become necessary to inspire confidence and credibility among the litigants of commercial disputes;

AND WHEREAS rapidly changing economic activity demands expeditious settlement of disputes and creation and establishment of institutional arbitration;

AND WHEREAS the International Centre for Alternative Dispute Resolution was set-up in the year 1995, under the aegis of the Central Government and registered under the Societies Registration Act, 1860, with the objective of promoting alternative dispute resolution mechanism and providing facilities for the same;

AND WHEREAS the International Centre for Alternative Dispute Resolution has received land and substantial funding by way of grants and other benefits from the Central Government for constructing infrastructure and making other facilities;

AND WHEREAS the International Centre for Alternative Dispute Resolution has not been able to actively engage and embrace developments in the arbitration ecosystem and to create a reputation par excellence keeping pace with the dynamic nature of arbitration over more than two decades;

AND WHEREAS studies conducted by the High Powered Committee appointed by the Central Government indicate that the International Centre for Alternative Dispute Resolution has failed to address the growing needs of the institutional arbitration and also to bear optimum caseload and to become better choice to the parties for arbitration;

AND WHEREAS it has become expedient to take over the undertakings of the International Centre for Alternative Dispute Resolution including its regional offices without interfering with its activities and without adversely affecting its character as a Society but to utilise its existing infrastructure and other facilities which have been set-up by using the public funds provided by the Government and to incorporate a robust institution for domestic and international arbitration to be known as the New Delhi International Arbitration Centre;

AND WHEREAS it is considered necessary to declare the New Delhi International Arbitration Centre as an institution of national importance for its overall development as a major arbitration hub by promoting quick and efficient dispute resolution mechanism.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the New Delhi International Arbitration Centre Act, 2018.
- (2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

- (a) “Chairperson” means the Chairperson of the Centre referred to in clause (a) of section 5;
- (b) “Chief Executive Officer” means the Chief Executive Officer appointed under section 21;
- (c) “Committee” means relevant Committee of the Centre referred to in section 19;
- (d) “Centre” means the New Delhi International Arbitration Centre established and incorporated under section 3;
- (e) “Custodian” means the person who is appointed as Custodian under sub-section (2) of section 11 in respect of the undertakings;
- (f) “Fund” means the Fund of the Centre to be maintained under section 25;
- (g) “Member” means Full-time or Part-time Member of the Centre and includes the Chairperson;
- (h) “notification” means a notification published in the Official Gazette;
- (i) “prescribed” means prescribed by rules made by the Central Government under this Act;
- (j) “regulations” means the regulations made by the Centre under this Act;

- 21 of 1860. (k) “Society” means the International Centre for Alternative Dispute Resolution, registered as such under the Societies Registration Act, 1860, and having its registered office at New Delhi;
- (l) “specified date” means the date as may be specified by the Central Government by notification;
- (m) “undertakings” means the undertakings of the Society which vests with the Central Government under section 7.
- 26 of 1996. (2) All other words and expressions used herein but not defined and defined in the Arbitration and Conciliation Act, 1996, shall have the same meanings as assigned to them in that Act.

CHAPTER II

ESTABLISHMENT AND INCORPORATION OF NEW DELHI INTERNATIONAL ARBITRATION CENTRE

3. (1) The Central Government shall by notification establish a body to be called the New Delhi International Arbitration Centre for the purposes of exercising the powers and discharging the functions under this Act.

Establishment and incorporation of New Delhi International Arbitration Centre.

(2) The Centre shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to enter into contract, and shall, by the said name, sue or be sued.

4. (1) Whereas, the objects of the New Delhi International Arbitration Centre are such as to make it as an institution of national importance, it is hereby declared that the New Delhi International Arbitration Centre is an institution of national importance.

Declaration of New Delhi International Arbitration Centre as an institution of national importance.

(2) The head office of the Centre shall be at New Delhi and it may with the previous approval of the Central Government, establish branches at other places in India and abroad.

5. The Centre shall consist of the following Members, namely:—

Composition of Centre.

(a) a person, who has been a Judge of the Supreme Court or a Judge of a High Court or an eminent person, having special knowledge and experience in the conduct or administration of arbitration, appointed by the Central Government in consultation with the Chief Justice of India—Chairperson;

(b) two eminent persons having substantial knowledge and experience in institutional arbitration, both domestic and international, appointed by the Central Government—Full-Time or Part-time Members;

(c) one representative of a recognised body of commerce and industry, chosen on rotational basis by the Central Government—Part-time Member;

(d) Secretary to the Government of India in the Ministry of Law and Justice or his representative, not below the rank of the Joint Secretary—Member, *ex officio*;

(e) one Financial Adviser nominated by the Ministry of Finance—Member, *ex officio*; and

(f) Chief Executive Officer—Member, *ex officio*.

6. (1) The Chairperson and Members shall hold office for a term of three years from the date on which they enter upon their office and shall be eligible for re-appointment:

Terms and conditions, etc., of Chairperson and Members.

Provided that no Chairperson or Member shall hold office as such after he has attained the age of seventy years in the case of Chairperson and sixty-seven years in the case of a Member.

(2) The terms and conditions, salary and allowances payable to the Chairperson and Full-time Member shall be such as may be prescribed.

(3) The term of office of a Member appointed to fill a casual vacancy shall be for the remainder of the term of the Member in whose place he has been appointed.

(4) The Part-time Members shall be entitled to such travelling and other allowances as may be prescribed.

CHAPTER III

ACQUISITION AND TRANSFER OF UNDERTAKINGS OF SOCIETY

Transfer and vesting.

7. On and from the specified date, so much of the undertakings of the Society as form part of, or are relatable to the Society, and the right, title and interest of the Society in relation to such undertakings, shall, by virtue of this Act, stand transferred to, and vest in the Central Government.

General effect of vesting.

8. (1) The undertakings vested under section 7 shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, projects, instruments, automobiles and other vehicles, cash balances, Funds, including reserve Funds, investments and book debts of the Society as form part of, or are relatable to, the Society and all other rights and interest arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the Society, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties and assets as aforesaid which have vested in the Central Government under section 7 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, *lien* and all other encumbrances affecting them or of any attachment, injunction, decree or order of any court or other authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets shall be deemed to have been withdrawn.

(3) Any licence or other instrument granted to the Society in relation to any undertaking which has vested in the Central Government under section 7 at any time before the specified date and in force immediately before the specified date, shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purpose of such undertaking or where the undertaking is directed under section 10, to vest in the Centre, the Centre shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to the Centre and the Centre shall hold it for the remainder of the period which the Society would have held it under the terms thereof.

(4) If, on the specified date, any suit, appeal or other proceeding, of whatever nature, in relation to any property or asset which has vested in the Central Government under section 7, instituted or preferred by or against the Society is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the Society of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government or where the undertakings of the Society are directed under section 10, to vest in the Centre, by or against the Centre.

Liability prior to specified date.

9. Every liability in relation to any undertaking in respect of any period prior to the specified date, shall be enforceable against the Society and not against the Central Government.

Power of Central Government to direct vesting of undertaking in Centre.

10. (1) Notwithstanding anything contained in sections 7 and 8, the Central Government shall, as soon as may be after the specified date, direct by notification, that the undertakings and the right, title and interest of the Society in relation to such undertakings which had vested in the Central Government under section 7, shall, vest in the Centre either on the date of publication of the notification or on such earlier or later date as may be specified in the notification.

(2) Where the right, title and interest of the Society in relation to the undertakings vest, under sub-section (1), in the Centre, the Centre shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become, the rights and liabilities, respectively, of the Centre.

11. (1) The general superintendence, direction, control and management of affairs of the undertakings, the right, the interest in relation to which have vested in the Central Government under section 7, shall—

Management,
etc., of
undertakings.

(a) where a direction has been made by the Central Government under sub-section (1) of section 10, vest in the Centre; or

(b) where no such direction has been made by the Central Government, vest in the Custodian appointed by the Central Government under sub-section (2),

and, thereupon, the Centre or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as the Society, is authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint any person as the Custodian of the undertakings in relation to which no direction has been made by it under sub-section (1) of section 10.

(3) The Custodian so appointed shall receive such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

12. (1) On the vesting of the management of the undertakings in the Centre or on the appointment of a Custodian under sub-section (2) of section 11, all persons in charge of management of the undertakings immediately before such vesting or appointment shall be bound to deliver to the Centre or Custodian, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertakings.

Duties of
persons in
charge of
management of
undertakings to
deliver all
assets.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Custodian as to the powers and duties of the Custodian and such Custodian may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertaking shall be conducted or in relation to any other matter arising in the course of such management.

(3) Any person who on the specified date, has in his possession or under his control, any books, documents or other papers relating to the undertakings shall be liable to account for the said books, documents or other papers to the Central Government or the Custodian or the Centre, as the case may be, and shall deliver them to the Central Government or the Custodian or the Centre or to such person or body of persons as the Central Government or the Centre may specify in this behalf.

(4) The Central Government or the Centre may take or cause to be taken, all necessary steps for securing possession of all undertakings which have vested in the Central Government or the Centre under this Act.

(5) The Society shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day pertaining to the undertaking and for this purpose, the Central Government or Custodian or the Centre shall afford to the Society, or body all reasonable facilities.

13. The Central Government or Custodian or the Centre shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Society in relation to its undertakings which have vested in the Central Government or Custodian or the Centre as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain powers
of Central
Government or
Centre.

Objects of
Centre.

14. The objects of the Centre shall be—

(a) to bring targeted reforms to develop itself as a flagship institution for conducting international and domestic arbitration;

(b) to promote research and study, providing teaching and training, and organising conferences and seminars in arbitration, conciliation, mediation and other alternative dispute resolution matters;

(c) to provide facilities and administrative assistance for conciliation, mediation and arbitral proceedings;

(d) to maintain panels of accredited arbitrators, conciliators and mediators both at national and international level or specialists such as surveyors and investigators;

(e) to collaborate with other national and international institutions and organisations for ensuring credibility of the Centre as a specialised institution in arbitration and conciliation;

(f) to set-up facilities in India and abroad to promote the activities of the Centre;

(g) to lay down parameters for different modes of alternative dispute resolution mechanisms being adopted by the Centre; and

(h) such other objectives as it may deem fit with the approval of the Central Government.

Functions of
Centre.

15. Without prejudice to the provisions contained in section 14, the Centre shall strive,—

(a) to facilitate for conducting international and domestic arbitration and conciliation in the most professional manner;

(b) to provide cost effective and timely services for the conduct of arbitration and conciliation at national and international level;

(c) to promote studies in the field of alternative dispute resolution and related matters, and to promote reforms in the system of settlement of disputes;

(d) to undertake teaching and to provide for diffusion of knowledge of law and procedures on alternative dispute resolution and related matters and to award certificates and other academic or professional distinction;

(e) to impart training in alternative dispute resolution and related matters to those who are handling arbitration, conciliation and mediation;

(f) to cooperate with other Societies, institutions and organisations, national or international for promoting alternative dispute resolution; and

(g) to perform such other functions as may be entrusted to it by the Central Government for promoting alternative dispute resolution.

Vacancies, etc.,
not to
invalidate
proceedings of
Centre.

16. No act or proceeding of the Centre shall be invalid merely by reason of—

(a) any vacancy or any defect in the constitution of the Centre;

(b) any defect in the appointment of a person acting as a Member of the Centre; or

(c) any irregularity in the procedure of the Centre not affecting the merits of the case.

Resignation of
Members.

17. The Chairperson or the Full-time or Part-time Member may, by notice in writing, under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or the Full-time Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

18. (1) The Central Government may, remove a Member from his office if he—

Removal of
Members.

(a) is an undischarged insolvent; or

(b) has engaged at any time (except Part-time Member), during his term of office, in any paid employment; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has become physically or mentally incapable of acting as a Member.

(2) Notwithstanding anything contained in sub-section (1), no Member shall be removed from his office on the grounds specified in clauses (d) and (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.

19. (1) The Centre may constitute such Committees as may be considered necessary to administer various aspects of its functions.

Committees of
Centre.

(2) The composition and functions of the Committees referred to in sub-section (1) shall be such as may be prescribed.

(3) The Committee shall meet at such time and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings including the quorum as may be specified by regulations.

20. (1) The Chairperson shall ordinarily preside at the meetings of the Centre:

Meetings of
Centre.

Provided that, in his absence, the Member chosen by the other Members present amongst themselves shall preside at the meetings.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Centre are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as are assigned to him under this Act.

(4) The Centre shall meet at least four times a year and follow such procedure in its meetings including quorum at such meetings in such manner as may be specified by regulations.

(5) All questions which come up before any meeting of the Centre shall be—

(a) decided by a majority of votes by the Members present and voting, and in the event of an inequality of votes, the Chairperson or in his absence, the person presiding, shall have a casting vote;

(b) dealt with as expeditiously as possible and the Centre shall dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the Centre shall record its reasons in writing for not disposing of the application within that period.

(6) The Chairperson may invite any expert, not being a Member, to attend the meetings of the Centre, but such invitee shall not be entitled to vote at the meeting.

Chief
Executive
Officer.

21. (1) There shall be a Chief Executive Officer of the Centre who shall be responsible for day-to-day administration of the Centre and for this purpose, he shall maintain liaison with the Centre and the Secretariat.

(2) The appointment, qualifications and the terms and conditions of services of the Chief Executive Officer shall be such as may be specified by regulations.

(3) The Chief Executive Officer shall exercise such powers and discharge such functions as may be specified by regulations or as may be delegated to him by the Centre.

Delegation of
powers.

22. The Centre may, for the purpose of discharging of its powers, functions and duties, by general or special order in writing, specify the powers and duties conferred or imposed upon the Centre by or under this Act (except the power to make regulations) which may also be exercised or performed by the Chief Executive Officer or any officer or officers of the Centre and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed.

Secretariat.

23. (1) There shall be a Secretariat to the Centre consisting of—

(a) Registrar, who shall supervise the activities of the Centre;

(b) Counsel, dealing with the matters relating to domestic and international arbitration; and

(c) such number of other officers and employees as may be prescribed.

(2) The qualifications, experience, method of selection and the functions of the Registrar, Counsel and other officers and employees shall be such as may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Centre in each financial year such sums of money and in such manner as it may think fit for being utilised for the purposes of this Act.

Fund of Centre.

25. (1) The Centre shall maintain a Fund to which shall be credited—

(a) all monies provided by the Central Government;

(b) all fees and other charges received during or in connection with the arbitration, conciliation, mediation or other proceedings;

(c) all monies received by the Centre for the facilities provided by it to the parties;

(d) all monies received by the Centre in the form of donations, grants, contributions and income from other sources; and

(e) the amount received from the investment income.

(2) All monies credited to the Fund shall be deposited in such banks or invested in such manner as may be decided by the Centre.

(3) The Fund shall be applied towards meeting the salary and other allowances of Members and the expenses of the Centre including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Accounts and
audit.

26. (1) The Centre shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Centre shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Centre to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Centre shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Centre.

(4) The accounts of the Centre as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

27. The assets and liabilities in relation to any undertaking under this Act shall be caused to be assessed by any agency authorised by the Comptroller and Auditor-General of India in such manner as may be specified by him and any payment on a claim to be made in relation thereto shall be settled by him between the Society and the Central Government and shall be paid by the Society or the Central Government, as the case may be, in the manner as may be specified by the Comptroller and Auditor-General of India.

Assessment of assets and liabilities of undertaking.

CHAPTER V

CHAMBER OF ARBITRATION AND ARBITRATION ACADEMY

28. (1) The Centre shall, establish a Chamber of Arbitration which shall empanel the Arbitrators and also scrutinise the applications for admission in the panel of reputed arbitrators to maintain a permanent panel of arbitration.

Chamber of Arbitration.

(2) The Chamber of Arbitration shall consist of experienced arbitration practitioners of repute, at national and international level and persons having wide experience in the area of alternative dispute resolution and conciliation.

(3) The Centre shall by regulations lay down the criteria for admission to the panel of the cadre so as to maintain a pool of reputed arbitrators having expertise in international commercial arbitration and arbitration other than international commercial arbitration.

(4) The Registrar to the Secretariat of the Centre shall act as the Member-Secretary to the Chamber of Arbitration.

29. (1) The Centre may establish an Arbitration Academy—

Arbitration Academy.

(a) to train the arbitrators, particularly in the area of international commercial arbitration to compete on par with the reputed international arbitral institutions;

(b) to conduct research in the area of alternative dispute resolution and allied areas; and

(c) to give suggestions for achieving the objectives of the Act.

(2) For the purposes of sub-section (1), there may be constituted a permanent three member committee in order to suggest and to submit a report to the Centre with respect to the amendments, if any, necessary to the rules and regulations pertaining to the Act.

CHAPTER VI

MISCELLANEOUS

30. (1) The Central Government may, by notification make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision for—

(a) the terms and conditions and the salary and allowances payable to the Chairperson under sub-section (2) of section 6;

(b) the travelling and other allowances payable to the Part-time Members under sub-section (4) of section 6;

(c) the composition and functions of the Committees referred to in sub-section (2) of section 19;

(d) the number of officers and employees of the Secretariat of the Centre under clause (c) of sub-section (1) of section 23;

(e) the qualifications, experience, method of selection and the functions of the Registrar, Counsel and other officers and employees of the Centre under sub-section (2) of section 23;

(f) annual statement of accounts, including the balance sheet under sub-section (1) of section 26; and

(g) any other matter in respect of which provision is to be made or may be made under this Act.

Power to make regulations.

31. (1) The Centre may, with the previous approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provision for—

(a) the time and place and the rules of procedure to be observed in regard to the transaction of business of the Committee at the meetings including the quorum under sub-section (3) of section 19;

(b) the time and place and rules of procedure in regard to the transaction of business of the Centre or any Committee including the quorum at the meeting under sub-section (4) of section 20;

(c) the appointment, qualifications and the terms and conditions of service of the Chief Executive Officer under sub-section (2) of section 21;

(d) the powers and functions of the Chief Executive Officer under sub-section (3) of section 21;

(e) the criteria for admission to the panel of arbitration under sub-section (3) of section 28; and

(f) any other matter in respect of which provision, in the opinion of the Centre, is necessary for the performance of its functions under this Act.

Laying of rules and regulations.

32. Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Protection of action taken in good faith.

33. No suit, prosecution or other legal proceedings shall lie against the Centre, the Chairperson or Members or its employees and arbitrators for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to remove difficulty.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The dispute resolution process has a huge impact on the economy and doing business in our country. The rapidly changing economic activity demands expeditious settlement of disputes, creation and establishment of mechanism such as institutional arbitration. This is necessary to inspire confidence and credibility among the litigants of commercial disputes. The huge pendency of cases in courts further underlines the need for strengthening the Alternative Dispute Resolution mechanism.

2. With a view to promote institutional arbitration and to make India a hub of international arbitration, a High Level Committee headed by Mr. Justice B. N. Srikrishna former Judge, Supreme Court of India was constituted, *inter alia*, to identify the roadblocks in the development of institutional arbitration, examine specific issues affecting the Indian arbitration landscape and prepare a roadmap for making India a robust centre for international and domestic arbitration.

3. The Committee, *inter alia*, recommended that the International Centre for Alternative Dispute Resolution (ICADR), which was set up in the year 1995, with the Government funds to promote alternative dispute resolution mechanism has however not been able to achieve the objectives for which it had been set up. The Committee further recommended that ICADR should be taken over with complete revamp of its governance structure to include only experts of repute who can lend credibility and respectability to the institution and be re-branded as a centre of national importance to highlight its character as a flagship arbitral institution.

4. In view of the above, it has been decided to establish a new institution to be called the New Delhi International Arbitration Centre (NDIAC) for better management of arbitration in the country and to declare it as an institution of national importance. Further, the undertakings of the International Centre for Alternative Dispute Resolution (ICADR) needs to be taken over without interfering with the activities and without adversely affecting the character of ICADR as a Society, so that the existing infrastructure and other facilities which have been set up by the public funds provided by the Government may be appropriately utilised for the overall development of institutional mechanism in arbitration.

5. The Bill envisages appointment of persons of repute and having knowledge and expertise in institutional arbitration as Chairperson and Members of the NDIAC. The objects of the NDIAC would be to bring targeted reforms to develop it as a flagship institution for domestic and international arbitration. It will conduct arbitration in a professional manner in the most cost effective way. The Bill also proposes to set up an Arbitration Chamber, which would empanel professional arbitrators at national and international level. An Arbitration Academy is also proposed to be set up by NDIAC to train arbitrators in India, so as to empower them to compete on par with reputed arbitral institutions.

6. The Bill seeks to achieve the above objectives.

RAVI SHANKAR PRASAD

NEW DELHI;
The 26th December, 2017.

Notes on clauses

Clause 2 defines various expressions used in the Bill.

Clause 3 provides for the establishment of a body corporate by the name the New Delhi International Arbitration Centre, with perpetual succession, a common seal, power to acquire, hold or dispose of property, power to enter into contract and the power to sue and be sued in its own name.

Clause 4 provides for the declaration of New Delhi International Arbitration Centre as an institution of national importance with head office at New Delhi and branches at other places in India and abroad.

Clause 5 seeks to provide for the composition of the Centre. The Centre shall consist of one chairperson who is a person, who has been a judge of the Supreme Court or a Judge of a High Court or an eminent person, having special knowledge and experience in the conduct or administration of arbitration, two eminent persons having substantial knowledge and experience in institutional arbitration, both domestic and international as Full-time or Part-time Members, one representative of a recognised body of commerce and industry as Part-time Member and one Member each from the Ministry of Law and Justice and Ministry of Finance and the Chief Executive officer of the Centre as Members *ex officio*.

Clause 6 seeks to provide for the term of office of Chairperson and Members of the Centre, their terms and conditions, salary and allowances of the Chairperson and Full-time Members and travelling and other allowances payable to the Part-time Members.

Clause 7 provides for the transfer and vesting of the undertakings of the International Centre for Alternative Dispute Resolution (Society) with right, title and interest in the Central Government on and from the specified date.

Clause 8 seeks to provide that the vesting in the Central Government shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable) including lands, buildings, works, projects instruments, automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the society. It also provides that properties vested in Central Government shall be freed and discharged from any trust obligation, mortgage, charge, *lien* and other encumbrances and also any attachment, injunction, decree or order of the court or authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets shall be deemed to have been withdrawn. It further provides that any licence or other instrument granted to the Society in relation to any undertaking which has vested in the Central Government shall continue to be in force on and after the specified date and the Centre shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to the Centre and the Centre shall hold it for the remainder of the period. It further provides that any suit, appeal or other proceeding of whatever nature instituted or preferred by or against the society in relation to any property or asset which has vested in the Central Government, shall not abate and the suit, appeal or other proceeding may be continued, prosecuted or enforced against the Central Government or the Centre.

Clause 9 seeks to provide that every liability in relation to any undertaking in respect of any period prior to the specified date shall be enforceable against the Society and not against the Central Government.

Clause 10 provides that the Central Government shall, as soon as may be after the specified date, direct by notification that the undertakings and the right, title and interest of the Society in relation to such undertakings which had vested in the Central Government

shall vest in the Centre either on the date of publication of the notification or on such earlier or later date as may be specified in the notification. It further provides that the Centre shall on and from the date of such vesting shall be deemed to have become the owner in relation to such undertakings and the rights and liabilities to the Central Government in relation to such undertakings shall be deemed to have become the rights and liabilities of the Centre.

Clause 11 seeks to provide for the general superintendence, direction, control and management of the affairs of the undertakings by the Centre on issuing direction by the Central Government and also to appoint Custodian of the undertakings by the Central Government on such remuneration as may be fixed and who shall hold office during the pleasure of the Central Government.

Clause 12 seeks to provide that on the vesting of the management of the undertakings in the Centre or on the appointment of a Custodian, all persons in charge of management of the undertakings immediately before such vesting or appointment shall be bound to deliver to the Centre or Custodian, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertaking. It further provides that the Central Government may issue such directions regarding powers and duties of the Custodian and the Custodian may also seek instructions from the Central Government as to the manner in which the management of the undertaking shall be conducted or in relation to any other matter arising in the course of such management. It also provides that any person who on the specified date, has in his possession or under his control, any books, documents or other papers relating to the undertakings shall be liable to account for such books, documents and other papers and shall deliver such documents to the Central Government or the Custodian or the Centre, as the case may be. It also provides that the Central Government or the Centre may take or cause to be taken all necessary steps for securing possession of all undertakings which have vested in the Central Government or the Centre. It also provides that the Society shall within such period as the Central Government may allow, furnish a complete inventory of all its properties and assets, as on the appointed day pertaining to the undertakings.

Clause 13 seeks to provide that the Central Government or Custodian or the Centre shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Society in relation to its undertakings which have vested in the Central Government or Custodian or the Centre as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Clause 14 seeks to provide for the objects of the Centre i.e., to bring targeted reforms to develop itself as a flagship institution for conducting international and domestic arbitration; to promote research and study, providing teaching and training, organising conferences and seminars in arbitration, conciliation, mediation and other alternative dispute resolution matters; to provide facilities and administrative assistance for conciliation, mediation and arbitral proceedings; to maintain panels of accredited arbitrators, conciliators and mediators both at national and international level or specialists such as surveyors and investigators; to collaborate with other national and international institutions and organisations for ensuring credibility of the Centre as a specialised institution in arbitration and conciliation; to set up facilities in India and abroad to promote the activities of the Centre; to lay down parameters for different modes of alternative dispute resolution mechanisms being adopted by the Centre; and such other objectives as it may deem fit with the approval of the Central Government.

Clause 15 seeks to provide the functions of the Centre including the function to facilitate for conducting international and domestic arbitration and conciliation in the most professional manner; to provide cost effective and timely services for the conduct of the arbitration and conciliation at national and international levels; to promote studies in the field of alternative dispute resolution and related matters and to promote reforms in the system of settlement of disputes; to undertake teaching and to provide for diffusion of knowledge of law and procedures on alternative dispute resolution and related matters and to award certificates and other academic or professional distinction; to impart training in alternative dispute resolution and related matters to those who are handling arbitration, conciliation and

mediation; to cooperate with other societies, institutions and organisations, national or international for promoting alternative dispute resolution; and to perform such other functions as may be entrusted to it by the Central Government for promoting alternative dispute resolution.

Clause 16 seeks to provide that any vacancy, defect in the appointment or any irregularity in procedure shall not invalidate the proceedings of the Centre.

Clause 17 seeks to provide for the procedure for resignation of Chairperson, Full-time and Part-time Members by notice in writing, addressed to the Central Government. It also provides that the Chairperson and Full-time Members shall be permitted to relinquish their office sooner, or continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor or until the expiry of his term of office, whichever is earlier.

Clause 18 seeks to specify the circumstances in which the Central Government may remove the Member of the Centre including that if he-(a) is an undischarged insolvent; or (b) has engaged at any time (except Part-time Member), during his term of office, in any paid employment; or (c) has been convicted of an offence which, involves moral turpitude; or (d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or (e) has so abused the position which renders the continuation in office detrimental to the public interest; or (f) has become physically or mentally incapable of acting as a Member. It also provides that no Member shall be removed from his office on the grounds specified in clauses (d) and (e) above, unless the Supreme court, on a reference being made to it has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.

Clause 19 of the Bill seeks to provide for the constitution of various Committees by the Centre for administering the various aspects of its functioning. It further provides that the composition and functions of the Committee shall be such as may be prescribed. It also provides that the Committee shall meet at such time and at such places and shall observe such rules of procedure regarding the transaction of business at its meetings including the quorum as may be specified by the regulations.

Clause 20 of the Bill seeks to provide that the meetings of the Centre shall be presided over by the Chairperson and in his absence the Member chosen by other Members shall preside over the meeting. It further provides that the Chairperson shall exercise such other powers and perform such other duties as are assigned to him under the Act and also to ensure the implementation of decisions taken by the Centre. It also provides that the Centre shall meet atleast four times in a year and follow the procedure in its meetings as may be specified by regulations. It also provides that all questions which come up before any meeting of the Centre shall be decided by a majority of votes of the Members present and voting and in the event of inequality of votes, the Chairperson or in his absence, the person presiding, shall have a casting vote. The Centre shall deal with all questions that come up before any meeting expeditiously and shall dispose of the same within a period of 60 days from the receipt of the application and where such application could not be disposed of within the said period, the Centre shall record its reasons in writing. It provides that the Chairperson may invite any expert, not being a Member to attend the meeting of the Centre, but such invitee shall not be entitled to vote at the meeting.

Clause 21 of the Bill seeks to provide for appointment of a Chief Executive Officer to the Centre, who shall be responsible for day to day administration of the Centre and he shall liaison with the Centre and the Secretariat and shall exercise such powers and discharge such functions as may be specified by the regulations or as may be delegated to him by the Centre. It further provides that the appointment, qualifications and terms and conditions of services of the Chief Executive Officer, shall be such as may be specified by regulations.

Clause 22 of the Bill seeks to provide for delegation of the powers, functions and duties of the Centre, by general or special order, in writing, specifying the powers and duties conferred or imposed upon the Centre under this Act (except the power to make regulations) and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed by the Chief Executive Officer or any officer or officers of the Centre.

Clause 23 of the Bill seeks to provide for a Secretariat to the Centre consisting of Registrar, Counsel and such number of other officers and employees and the qualifications, experience, method of selection and functions shall be such, as may be prescribed.

Clause 24 of the Bill seeks to provide that the Central Government may after due appropriation made by the Parliament by law, pay to the Centre in each financial year such sums of money and in such manner as it may think fit for being utilised for the purposes of the Act.

Clause 25 of the Bill seeks to provide that the Centre shall maintain a Fund in which all the monies provided by the Central Government; all fees and other charges received during or in connection with the arbitration, conciliation, mediation or other proceedings; all monies received by the Centre for the facilities provided by it to the parties; all monies received by the Centre in the form of donations, grants, contributions and income from other sources; and the amounts received from the investment income, shall be credited. It further provides that all monies credited to the Fund shall be deposited in such banks or invested in such manner as may be decided by the Centre and the Fund shall be applied towards meeting the salary and other allowances of Members and the expenses of the Centre including expenses incurred in the exercise of its powers and discharge of its duties under the Act.

Clause 26 of the Bill seeks to provide that the Centre shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India. It further provides that the accounts of the Centre shall be audited by the Comptroller and Auditor-General of India or any other person appointed by him and any expenditure incurred in that connection shall be payable by the Centre. It also provides that the Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Centre shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India. It also provides that the accounts of the Centre as certified by the Comptroller and Auditor-General of India or any other person appointed by him together with audit report thereon shall be forwarded annually to the Central Government which shall be caused to be laid before each House of Parliament.

Clause 27 of the Bill seeks to provide that the assets and liabilities in relation to any undertaking under the Act shall be caused to be assessed by any agency authorised by the Comptroller and Auditor-General of India, in such manner as may be specified by him and any payment on a claim to be made in relation thereto, shall be settled by him between the Society and the Central Government and shall be paid by the Society or the Central Government as the case may be, in the manner as may be specified by the Comptroller and Auditor-General of India.

Clause 28 of the Bill seeks to provide for establishment of a Chamber of Arbitration, which shall empanel the arbitrators and also scrutinize the applications for admission in the panel of reputed arbitrators. It further provides that the Chamber of Arbitrators shall consist of experienced arbitration practitioners of repute, at national and international level and persons having wide experience in the area of alternative dispute resolution and conciliation. It also provides that the Centre shall lay down the criteria by regulations, for admission to the panel of the cadre to maintain a pool of reputed arbitrators having expertise in international commercial arbitration and arbitration other than international commercial arbitration and the Registrar of the Centre shall be the Member-Secretary of the Chamber of Arbitration.

Clause 29 of the Bill seeks to provide that the Centre may establish an Arbitration Academy to train the arbitrators particularly in the area of international commercial arbitration to compete on par with the reputed international arbitral institutions; to conduct research in the area of alternative dispute resolution and allied areas; and to give suggestions for achieving the objectives of the Act. It further provides for constitution of a permanent three member Committee, which may suggest amendments, if any, necessary to the rules and regulations made under the Act.

Clause 30 of the Bill seeks to empower the Central Government to make rules to carry out the provisions of this Act.

Clause 31 of the Bill seeks to empower the Centre to make regulations, by notification, with the previous approval of the Central Government. It further provides that the regulations shall be consistent with the provisions of the Act and the rules made thereunder.

Clause 32 of the Bill seeks to provide for laying of every rule made by the Central Government and every regulation made by the Centre, as soon as may be, after it is made, before each House of the Parliament.

Clause 33 of the Bill seeks to provide that no suit, prosecution or other legal proceedings shall lie against the Chairperson or Members or the Centre or its employees and arbitrators for anything which is in good faith done or intended to be done under the Act or the rules or regulations made thereunder.

Clause 34 of the Bill seeks to provide that if any difficulty arises in giving effect to the provision of the Act, the Central Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as may appear to it to be necessary for removing the difficulty. It further provides that no such order shall be made after the expiry of two years from the date of the commencement of this Act. It also provides that every order made under this section shall be laid before each House of Parliament.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for establishment of the New Delhi International Arbitration Centre and sub-clause (2) provides that the Centre shall hold, acquire and dispose of property, both movable and immovable.

2. Sub-clauses (2) and (4) of clause 6 of the Bill provides for terms and conditions, salary and allowances payable to the Chairperson and Full-time Members and travelling and other allowances payable to Part-time Members.

3. Clause 7 of the Bill provides that on and from the specified date, the undertakings of the International Centre for Alternative Dispute Resolution (hereinafter referred to as Society) shall stand transferred to and vest in the Central Government.

4. Clause 10 of the Bill provides that the rights and liabilities of the Central Government in relation to the undertakings of the Society shall on and from the specified date shall vest in the New Delhi International Arbitration Centre (hereinafter referred to as Centre) and the Centre shall be deemed to have become owner in respect of such properties, etc.

5. Sub-clauses (2) and (3) of clause 11 empowers the Central Government to appoint a custodian of the undertakings on such remuneration as may be fixed by the Central Government.

6. Clause 14 of the Bill provides to promote research and study, providing teaching and training and organising conferences and seminars in arbitration, conciliation, mediation and other alternative dispute resolution matters and to set up facilities in India and abroad to promote the activities of the Centre.

7. Clause 19 of the Bill provides for constitution of various committees by the Centre for handling the specific aspects relating to the functions of the Centre.

8. Sub-clause (1) of clause 21 of the Bill provides for appointment of a Chief Executive Officer, who shall be responsible for day to day administration of the affairs of the Centre. Sub-clause (2) provides for specifying the terms and conditions of service of the Chief Executive Officer.

9. Sub-clause (1) of clause 23 of the Bill provides for the establishment of a Secretariat of the Centre. Sub-clause (2) provides for qualifications, etc., of the other officers and employees of the Secretariat.

10. Clause 24 of the Bill provides for Grants by the Central Government to the Centre.

11. Clause 25 of the Bill provides for maintenance of a fund for crediting all monies provided by the Central Government; all fees and other charges received during or in connection with the arbitration, conciliation, mediation or other proceedings; all monies received by the Centre for the facilities provided by it to the parties; all monies received by the Centre in the form of donations, grants, contributions and income from other sources; and the amount received from the investment income and the same shall be deposited in such banks or invested in such manner as may be decided by the Centre. The Fund shall be applied towards meeting the salary and other allowances of Members and the expenses of the Centre including expenses incurred in the exercise of its powers and discharge of its duties.

12. Clause 28 of the Bill provides for establishment of Chamber of the Arbitration for empanelment of Arbitrators, scrutinise the applications for admission in the panel of reputed arbitrators.

13. Clause 29 of the Bill provides for the establishment of an Arbitration Academy to train the arbitrators, particularly in the area of international commercial arbitration to compete on par with the reputed international arbitral institutions; to conduct research in the area of alternative dispute resolution and allied areas, etc.

14. It is estimated that there would be an expenditure of approximately six crore, thirty-two lakhs, forty-four thousand and four hundred rupees in the first year, six crore, twenty-eight lakhs, twenty-seven thousand, eight hundred and forty rupees in second year and six crore, ninety-three lakhs, thirty-five thousand, three hundred and twenty-four rupees in the third year of establishment of the Centre as initial establishment expenses, including salaries and allowances and other remuneration of Chairperson and Members (other than *ex officio* Members) and Custodian and of its officers and other employees. It is expected that major recurring expenses of the Centre would be funded out of the fees and charges as may be received by the Centre.

15. The Bill, if enacted and brought into operation, would not involve any other expenditure of a recurring or non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 11 of the Bill empowers the Central Government to fix the remuneration of the Custodian appointed under sub-clause (2) of clause 11.

2. Sub-clause (2) of clause 18 of the Bill empowers the Supreme Court to prescribe procedure for removal of a Member on a reference being made by the Central Government.

3. Clause 30 of the Bill empowers the Central Government to make rules with respect to the matter specified under sub-clause (2) which, *inter alia*, relate to the terms and conditions and the salary payable to Chairperson and Full-time Members; the travelling and other allowances payable to Part-time Members; composition and functions of the Committees; the number of officers and employees of the Secretariat of the Centre; the qualifications, experience, method of selection and the functions of the Registrar, Counsel and other officers and employees of the Centre; annual statement of accounts including balance sheet of the Centre.

4. Clause 31 of the Bill empowers the New Delhi International Arbitration Centre to make regulations with the previous approval of the Central Government, in respect of the matters specified under sub-clause (2) which, *inter alia*, relate to the time and place and the rules of procedure to be observed in regard to the transaction of business of the Committee at the meeting including the quorum; the time and place and rules of procedure in regard to the transaction of business of the Centre or any Committee including the quorum in the meeting; the appointment, qualifications and the terms and conditions of service of the Chief Executive Officer; the powers and functions of the Chief Executive Officer; and the criteria for admission to the panel of the arbitrators.

5. The matters in respect of which rules or regulations may be made are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

SNEHLATA SHRIVASTAVA
Secretary General